LAW OF THE REVENUE STAMP

Legal Questions Involved in the New War Tax Measure.

LESSONS TAUGHT BY FORMER STAMP ACTS

What the Courts Have Decided with Reference to the Effect of Failure to Observe the Provisions of the Law.

The stamp act which went into effect the first day of July last past is a somewhat awkwardly drawn piece of legislation. Its most important provisions, says Law Notes, are taken with slight modification from the stamp act of 1862, and the amendatory acts of 1864 and 1866, but the way in which they are inserted in the present act seems to show an ignorance of the history of the former legislation. Moreover, the act abounds in involved and ungrammatical sentences, but this is so common a defect of our laws that it scarcely calls for passing comment.

Section 7 of the present act, which enacts "that if any person or persons shall make, sign, or issue, or cause to be made, signed or issued, any instrument, document or paper of any kind or description whatsoever, without the same being duly stamped for denoting the tax hereby imposed thereon, or without having thereupon an adhesive stamp to denote said tax, such person or persons shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than $100, at the discretion of the court, and such instrument, document or paper, as aforesaid, shall not be competent evidence in any court," is based on section 95 of the act of 1862, as amended by the act of 1862, chapter 163, section 24, the main difference being that the earlier statute provided a penalty of $50 for its infraction. Section 10 of the present act, which is in these words: "That if any person or persons shall make, sign or issue, or cause to be made, signed or issued, or shall accept or pay, or cause to be accepted or paid, with design to evade the payment of any stamp tax, any bill of exchange, draft or order, or promissory note for the payment of money, liable to any of the taxes imposed by this act, without the same being duly stamped or having thereupon an adhesive stamp for denoting the tax hereby charged thereon, he, she or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $200, at the discretion of the court," is identical in effect with section 100 of the statute of 1862, except that the act of 1862 provided for a forfeiture of $200 without leaving anything to the court's discretion.

Difference in the Acts.

The two sections of the present act differ in the fact that intention to evade the payment of the stamp tax is necessary to bring the case within section 10. As the act was originally drawn in 1862 the purpose of section 100 appears to have been to impose a heavier penalty for omitting stamps on the particular instruments therein mentioned, and the clause making design an element of the offense was inserted as an amendment while the bill was undergoing discussion in the senate and house. In the revised act of 1864 these two sections, being somewhat inharmonious, were consolidated and became section 158 of that act. The effect of this was that intent was made essential in all cases, the penalty was fixed at $200 and the unstamped instrument was declared invalid. By an amendment of 1865 (Thirteenth United States Statutes at Large, page 481) the penalty was reduced to $50, and this penalty was retained in the amendment of 1866 (Fourteenth United States Statutes at Large, page 142), which declared that instruments "not being stamped according to law" should be "deemed invalid and of no effect." This enactment, which in the act of 1864 was substituted for sections 95 and 100 of the act of 1862, appears side by side with them in the present statute as section 13 thereof. This section is practically identical with section 158 of the act of 1864 as amended in 1866, the amount of the penalty specified in the last revision, namely $50, being retained. Thus one who issues an unstamped bill or note is liable to a fine of $100 under section 7 of the present act without reference to his intent, by section 10 he is liable to a fine of $200 for the same offense, but only in case he is fixed with an intent to evade the statute, and by section 13 he is liable under a similar restriction to a fine of $50.

Conflicting Sections.

The result of the omission of the stamp upon the instrument itself is also involved in confusion. Under section 7 an unstamped instrument is inadmissible in evidence. Under section 13 an instrument from which the stamp has been omitted with intent to evade the stamp tax is invalid and of no effect. Under section 14, which is based on section 163 of the act of 1864, as amended by act of 1866 (14 U. S. Stat. at L., p. 143), no unstamped instrument is admissible in evidence until a legal stamp shall have been affixed thereto, and under the provisos attached to section 13 unstamped instruments may be stamped after their issue or transfer upon the payment of $10, which may be remitted on certain conditions, where it appears that the stamp was omitted innocently.

The statute which is now in force is thus largely a compilation of the provisions of preceding statutes and to the judicial interpretation of the former statutes the courts will undoubtedly turn in construing the new enactment.

Has Congress the Power?

A question which meets us at the very outset of any consideration of this subject is the limits of the power of congress to prescribe and enforce a stamp tax. The matter has never been considered in the supreme court of the United States, but there is a large body of authority in the reports of the state courts upon this point. The state courts all concede the power of the federal legislature to levy a stamp tax and to enforce its provisions by penal enactments, but here unanimity ceases. In some cases it is declared that congress has no power to go further than this and declare domestic contracts void for want of a stamp, or to prescribe to state courts a rule of evidence forbidding the admission of unstamped instruments. This view is thus stated by Judge Cooley in Simmons against Halloway, 21 Mich. 162, 4 Am. Rep. 465: "We have no doubt of the right of congress to lay stamp duties, and to impose penalties, which may be collected by proper judicial proceedings, for any violation of their regulations on that subject. But to make void a contract made in one of the states between citizens thereof, and which is permitted by the local law, is not a proper penalty, and is not admissible under our political system. There was no hint of such a power in our federal constitution, and it is inconsistent with the unquestionable right of the states to regulate in their own way the matters of local trade and commerce. What congress might do regarding contracts which fall within the domain of foreign or interstate commerce we do not undertake to say; but the formalities of contracts like the one in question are matters exclusively of state regulation, and if the federal government imposes taxes upon these instruments it must compel their payment in some other mode than by imposing it as a condition precedent to the exercise of a right which the state, under the distribution of power by the federal constitution, permits to its citizens." In accord with the opinion here expressed are Latham against Smith, 45 Ill. 29, and Hunter against Cobb, 1 Bush (Ky.) 239. Many other authorities also deny the power of congress to prescribe to state courts a rule of evidence regulating the admissibility of unstamped documents. Bumpass against Taggart, 26 Ark. 398, 7 Am. Rep. 623, Pagout against Richardson, 30 La. Ann. 1,286; Moore against Moore, 47 N. Y. 467, 7 Am. Rep. 466; Sporer against Eiffes, 1 Heisk. (Tenn.) 633; Crews against Farmers' bank, 31 Gratt. (Va.) 348. The same view is intimated in Carpenter against Snelling, 97 Mass. 452. On the other hand, there are decisions upholding the power of congress in this respect. The leading case is Chartiers, etc. Turnpike Co. against McNamara, 72 Pa. St. 278, 13 Am. Rep. 673, 7 Alb. L. J. 56.

Question of Intention.

The consideration of this delicate question of conflict between federal and state authority is avoided by those decisions which hold that the act was not intended to invalidate unstamped instruments unless the stamp was omitted with intent to evade the act, and that a construction of the terms of the act shows that the provision rendering unstamped instruments inadmissible in evidence was intended to apply only to federal courts. This view is maintained by Judge Gray, now of the United States supreme court, in an able and exhaustive opinion in Green against Holway, 101 Massachusetts, 243, 3 Am. Rep. 339. He there shows that all the provisions of the act of 1862 and its amendments are consistent with the view that a guilty intent in omitting the stamp is necessary in order to render an unstamped document void. This ruling, which is placed beyond doubt by the decision of the United States supreme court in Campbell against Wilcox, 10 Wall. (U. S.) 421, is equally applicable to the provisions of the present stamp act in spite of their confused character. Section 7 does not purport to invalidate instruments unstamped, and section 13 clearly requires the presence of a guilty intent to have such an effect, while the provisos to that section go further and show that even when a stamp is omitted with wrongful intent it may afterwards, upon payment of a penalty, be supplied, with the effect of validating the instrument. See Foster against Holley, 49 Alabama 593. (The headnote to this case is misleading.)

That the provisions of the act of 1862 rendering unstamped instruments inadmissible in evidence were not intended to apply to the state courts is maintained in a large number of other cases, of which we may cite: McElvain against Mudd, 44 Alabama 488, Am. Rep. 106; Duffy against Hobson, 40 California 240, 6 Am. Rep. 617; Griffin against Ranney, 35 Conn. 239; Forcheimer against Holly, 14 Fla. 239; Bowen against Byrne, 55 Ill. 467; Wallace against Cravens, 34 Ind. 534; Moore against Quirk, 105 Mass. 49, 7 Am. Rep. 499; Burson against Huntington, 21 Mich. 415, 4 Am. Rep. 497; Davis against Richardson, 45 Miss. 499, 7 Am. Rep. 732; Haight against Grist, 64 N. Car. 739; Atkins against Plympton, 44 Vt. 21; Weltner against Riggs, 3 W. Va. 445.

From a note to the case of Emery against Hobson, 63 Me. 33, it appears that this question arose in the case of Moore against Mason, argued before the United States supreme court at its October term in 1873, when, the court being incomplete by reason of a vacancy occasioned by the death of Chief Justice Chase, and the associated justices being equally divided in opinion, no conclusion was reached.

The contrary doctrine appears to have obtained only in Nevada, Wayman against Torreyson, 4 Nev. 124; in Iowa, Hugus against Strickler, 19 Iowa 414; Mitchell against Home Insurance Company, 32 Iowa 471; and in Pennsylvania, Chartiers Tp. Co. against McNamara, 72 Pa. St. 278.

Burden of Proof.

The burden of establishing that the omission of a stamp was with intent to evade the provisions of the stamp act, and that such omission has, therefore, the effect of invalidating the instrument, is upon the party impeaching it. Whigham against Pickett, 43 Ala. 140; Dudley against Wells, 55 Me. 145; Desmond against Norris, 10 Allen (Mass.) 250; Tobey against Chipman, 13 Allen 123; Waterbury against McMillan, 46 Miss. 635; Baker against Baker, 6 Lans. (N. Y.) 509; New Haven, etc., Co. against Quintard, 6 Abb. Pr. N. S. (N. Y.) 128; Grant against Conn. Mut. L. Ins. Co., 29 Wis. 125. But there is authority for a contrary view. United States against Learned, 1 Abb. (U. S.) 483. See also an article in 10 Am. L. Reg. N. S. 481.

Where an instrument was innocently left unstamped it was held in some states that it might be read in evidence without affixing a stamp, and this seems to follow necessarily from the view that the prohibition as to the admission of unstamped instruments was applicable only to federal courts. Perryman against Greenville, 51 Ala. 507; Bowen against Byrne, 55 Ill. 467; Emery against Hobson, 63 Me. 33; Black against Woodward, 39 Md. 194. But in other cases the affixing of a stamp at the time of trial has been required. Turner against State, 48 Ala. 549; Plessinger against Depuy, 25 Ind. 419; Waterbury against McMillan, 46 Miss. 635.

Even when an instrument sued on is invalid for want of a stamp, it appears that a recovery may be had upon the original consideration for which the instrument was given. Israel against Redding, 40 Ill. 362; Humphreys against Wilson, 43 Miss. 328; Wilson against Carey, 40 Vt. 179.

Simple Rules.

The instruments subject to stamp duty are set out in detail in "schedule A" of the stamp act. In construing a similar schedule the United States supreme court said: "It is said that in many instances the statute refers to the same subject more than once, under different names, and with different rates of duty, and that embarrassment in the construction of the statute may arise from this cause. Thus a check, whether drawn upon a bank or an individual, is in the nature and form of an inland bill of exchange, having a drawer, a drawee, and usually a payee. * * * A few simple rules will dispose of the most of the difficulties that may arise: First, instruments described in technical language, or in terms especially descriptive of their own character, are classed under that head, and are not to be included in the general words of the statute. 2d. The words of the statute are to be taken in the sense in which they will be understood by that public in which they are to take effect. Science and skill are not required in their interpretation, except where scientific or technical terms are used. 3d. The liability of an instrument to a stamp duty, as well as the amount of such duty, is determined by the form and face of the instrument, and cannot be affected by proof of facts outside of the instrument itself. 4th. If there is a doubt as to the liability of an instrument to taxation the construction is in favor of the exemption, because, in the language of Pollock, C. B., in Girr against Scudds, 11 Exchequer 191, 'a tax cannot be imposed without clear and express words for that purpose.' These principles are based in good sense and are sustained by the authorities." United States against Isham, 17 Wall. (U. S.) 503.

Neither an endorsement nor a waiver of demand and notice requires an additional stamp. Pugh against McCormick, 14 Wall. (U. S.) 361.

The provision for the cancellation of stamps by the initials of the person affixing the same, and the date of affixing, is directory merely, any cancellation is sufficient which so defaces the stamp that it cannot be used again. Foster against Holly, 49 Ala. 593; Robinson against Lair, 31 Iowa 9; Taylor against Duncan, 33 Tex. 440. And even instruments stamped with uncanceled stamps may be admitted in evidence, on the ground, apparently, that there is a presumption that the stamp was affixed legally and at the proper time, and on the further ground that the government is not in such cases defrauded of its revenue. Union Agricultural Association against Neill, 31 Iowa 95; Schultz against Herndon, 32 Tex. 390.

Section 17 of the present stamp act, which provides that "hereafter" no unstamped instrument shall be receivable in evidence, does not apply to instruments executed before the date of the act's going into effect. Rheinstrom against Cone, 26 Wis. 163, 7 Am. Rep. 48.

SHRUM EXPLAINS THE STRIKE.

Secretary of the Building Trades Council Gives His Version.

OMAHA, Aug. 10.—To the Editor of the Bee: It is desired that the false impression conveyed, to those not acquainted with the facts, by the statements made this morning under the caption, "Showing of the School Board," should be corrected. I wish to state officially that President Bell of the Central Labor Union has nothing whatever to do with this strike against the school board up to date, as it is a matter wholly originating in the Building Trades Council and being managed by it. Mr. Bell is not even an officer of the Building Trades Council, but as a delegate from his union is obeying the orders given him by the council, and if he made the statement, which we believe he did not, to several workmen, that "If you do not go out I will have you expelled from the unions and will bring influence to bear on the board to have you discharged," he did so without authority, as such instructions were never given him as the authorized agent of the Building Trades Council.

As to the statement made by members of the Carpenters' union that they would not come off because their union had no grievance and they would not take part in a sympathetic strike, we wish to say that their grievance is just the same as the other unions, viz: That of the nine carpenters employed by the board five of them were non-union men, and by the way it would be well to state that these same men who are so jealous of their personal rights in this free American country, some time ago applied to, and through influence of the Carpenters' union were reinstated in their present "job" with this economical Board of Education, who prefer to give the public work to political wire pullers and ward heelers, who have no qualification for the labor they are to perform other than that they were good workers at the polls last election for U. Ketchum and I. Skinum, or some other member of the Board of Education who has a "kite" up in the hope that he can by the use of his present position obtain something more to his liking from the "dear," and by his estimation at least, ignorant public.

Now let it be understood that this walkout or strike is not wholly one against non-union men, and that the unions played a snap game. Communications to the Board of Education from the several unions have been given but the slightest consideration, and committees were treated with but scant courtesy to say the most. Nor is it one of a single union alone, but of all trades, as, for instance, there was not a single one of the bricklayers employed who belongs to the Bricklayers' union, which at its meeting last night unanimously endorsed the action of the Building Trades Council and pledged financial support. Therefore when a member of that union goes to work for the school board before this matter is settled he becomes subject to the penalties provided for violation of the rules of his union.

It is enough to say that if the members of the school board had placed the matter of employing mechanics in the hands of the superintendent of buildings with instructions to employ no mechanic or laborer except upon his merits, there would never have been an occasion for a strike such as is now on, and that method of employing men would have resulted in the employment of none but competent mechanics, and consequently union men.

In conclusion I will say that there is no split or division amongst members of the unions as to the advisability of the proceedings, as they all feel that a stand had to be taken at some time, and circumstances were such as to warrant action at the present. Respectfully,

O. P. SHRUM, Secretary B. T. C.

STRIKE TO COMMENCE TODAY

Number of Coal Miners Affected by Order is Not Accurately Known.

PITTSBURG, Aug. 10.—If the resolution adopted at the recent general convention of the United Mine Workers is obeyed, all diggers in the Pittsburg district not receiving the district price will quit work today. Inasmuch as it is not generally known how many mines are running contrary to the Chicago agreement's provisions, it cannot be estimated how many diggers the strike order will affect. The strike will probably center in the river region, where numerous mine owners are alleged to be constantly violating the agreement. The struggle will be the hardest in the third pool, against which an unsuccessful strike was prosecuted some weeks ago.

Thomas Out for Senator.

DENVER, Aug. 10.—Hon. Charles S. Thomas, a leading lawyer and former democratic national committeeman for Colorado, has formally announced his candidacy for the seat in the United States senate now held by Edward O. Wolcott. State senators elected this fall will hold over as members of the legislature that will elect Senator Wolcott's successor in 1901.

WESTBERG DEFENDS HIS PLAN

Says the Sinking Fund Warrant Scheme Saves the City Money.

DISAGREES WITH THE CITY ATTORNEY

It Places Each Improvement District on Its Own Bottom, and Reveals Who Are Shirking Their Taxes.

There is a decided variance of opinion regarding the merits of the special sinking fund warrant scheme between City Comptroller Westberg, who strongly advocated it at the time of its adoption, and City Attorney Connell, who last night rendered an opinion to the council discouraging its further use. City Attorney Connell declared the scheme was a "bad piece of financiering;" City Comptroller Westberg insists that it is a "good piece of bookkeeping," and for that reason will fight for its maintenance.

This sinking fund warrant plan is the direct outgrowth of a new scheme of meeting improvement district bonds inaugurated by the city comptroller. According to the old way the taxes and assessments collected for improvements in all the districts were lumped together and out of this district improvement bonds and coupons were paid as they matured. According to the new way the collections of taxes and assessments in each improvement district are put into that district's fund to meet the bonds and coupons of that same district as they mature. In this way "every district stands upon its own bottom," declares City Comptroller Westberg.

As soon as this system was put in vogue, however, it was found that in many of the districts a goodly portion of the assessments for improvements had never been paid in. Consequently there was no money on hand when the bonds and coupons of those districts fell due. It was necessary that some scheme should be devised to preserve the city's credit, as the obligations matured and it was out of this necessity that the special sinking fund warrant scheme was born. In each of these delinquent districts the city comptroller formed a sinking fund, composed of the uncollected taxes and accrued interest, and against this fund the warrants that paid the obligations were drawn.

Why Connell Objects.

Of course, when there is no money in the sinking funds to take up these warrants they must be sold and they draw 7 per cent interest immediately after they are registered. It is on this account that City Attorney Connell objects to the scheme. He declares that it would be much cheaper for the city to issue renewal bonds wherever there is no funds to pay the maturing district bonds and coupons. These renewal bonds could readily be sold at 4 per cent interest, thereby saving the difference in interest between that rate and the 7 per cent that the warrants would draw.

City Comptroller Westberg agrees partially with this idea of the city attorney, but he maintains that the sinking fund warrant scheme is still needed. He said:

"According to law the treasurer cannot pay out a cent without a warrant from the comptroller. How can I draw such a warrant when no funds exists against which it may be issued? The required fund is created by the special sinking fund scheme. To be sure, there is no money in these sinking funds, but they may be replenished as the city attorney advises. Renewal bonds at 4 per cent should be issued and sold and with the proceeds the warrants could be taken up before they commence to draw interest. But all the while I must have a fund against which to draw warrants to pay maturing bonds and coupons when the districts have no cash balance on hand. This scheme of renewal bonds, however, is only practicable in case the amount of the maturing obligations is considerable. If they amount but to $50 or $75, as in many cases they do, it would be ridiculous to issue renewal bonds for such small sums. In such cases I should say that no bonds be issued, but the city invest in the warrants with other city funds and not let them go to outside parties. In this way the city will lose nothing.

City is Not a Loser.

"As a matter of fact the city has not been loser as a result of the scheme. The plan was put in force in June for the first time. In the months of June, July and August bonds and coupons amounting to $92,885.33 have fallen due which could not be paid for lack of money in the district funds. Warrants for that amount were issued, but none of them have been sold. Cash balances in other district funds were invested in them, so that the city has lost nothing. Of the amount $60,901.80 were paid. There are warrants outstanding of $31,963.53. They are nominally drawing interest at 7 per cent, but the city is losing nothing as it retains them all.

"One reason that they have not been sold, however, was because of a question of their legality. It was on this point that the scheme was referred to the city attorney. He was asked by the city treasurer if they were legal. He did not answer that question in the communication at all, but declared that the scheme was a bad peice of financiering, without stating whether or not it is legal.

"I believe the scheme an excellent one. In the first place I do not believe it is right or legal that a district which has paid up its assessments in full should be asked to help pay the obligations of the district in which the property owners are delinquent. In the second place the city knows exactly where the delinquents are. If many warrants against any one district sinking fund are issued a natural desire will arise to know what the cause of it is. The investigation will develop just what property owners have refused to pay their assessments and are therefore compelling the city to issue warrants bearing interest to meet their obligations."

FIXING A FEE FOR APPRAISERS.

City Council is Trying to Solve an Annoying Problem.

The question of the amount of fees to be paid appraisers is one of the matters that is putting the gray matter of the city fathers in a turmoil. They have been trying to solve it for a considerable length of time, but without avail. At the last meeting of the committee of the whole the burden of discovering a solution was planted on the shoulders of the city attorney, who was instructed to prepare an ordinance to make the fee a fixed quantity. Apparently this is an easy task, but in reality it is a tough proposition.

"I don't see how the fee can be fixed," declares President Bingham of the council. "For example, suppose we are to change an alley along which the property belongs to one man. According to law we must appoin three appraisers to assess the benefits and damages. Then again, suppose we are to grade a street twenty blocks long along which there are hundreds of property owners. Again we must appoint three appraisers. The appraisers cannot be paid the same fee, for one set has no work to do and the other has a great amount of work. And if no fee is made, what sort of a workable sliding scale can be arranged to meet all the conditions?"

President Bingham and all the other councilmen, however, are unanimous that some solution of the difficulty should be reached as the city is all the while having trouble over the pay of appraisers. The latter put in a bill for services which the city fathers are sure is exorbitant. Consequently there is a continuous squabble and the city is often compelled finaly to pay an appraisers' bill which is too big.

The idea of forming an ordinance to fix the fee arose in the brain of a councilman who believed that in this way the appraisers appointed, knowing exactly what their compensation would be, could serve or not as they pleased and would have no claim upon the city for additional pay.

PROPERTY OWNERS ASK DAMAGES.

Want City to Pay for Injuries Caused by a Bad Sewer.

At the last meeting of the council the city fathers, upon the advice of the city attorney, disallowed somewhere between $4,000 and $5,000 worth of claims for damages alleged to have been sustained as the result of a washout in the northwest part of the city near Thirtieth and Bristol streets. These damages consisted of flooded cellars and dwellings and ruined yards—the consequence of a heavy rain that fell several weeks ago.

These damaged property owners have been persistent. A delegation of them once appeared in a council meeting and recited their grievances. They alleged that the damages were caused by a defective sewerage system. City Engineer Rosewater admitted that the system in that portion of the city is not the best, but as it was put in by his predecessor he disclaimed all responsibility for it. Moreover he insisted that he had made such improvements that the district was much relieved—so much so that in an ordinary rain all the water would have been carried away. The downfall which caused the damage, he declared, was so heavy that it could not have been carried away. The city attorney based his opinion on this statement of the city engineer that no ordinary sewer could have carried off the water that fell on the occasion.

The next move is up to the damaged property owners. Some of them are threatening to sue the city. If they do, the city will defend.

Mortality Statistics.

The following births and deaths were reported to the health commissioner during the twenty-mour hours ending at noon yesterday:

Births—Joel T. Griffin, Forty-second and Grover, boy; Charles Lundin, 2202 Clark, girl; Charles Wheeler, 914 North Twenty-eighth avenue, girl.

Deaths—T. P. Orton, 4908 Sherman avenue, 1 month.

FIGHTS FOR THE PROPERTY

Henry Oeldeman Contests the Execution of a Writ by the Sheriff of Douglas County.

Petition for a restraining order and a temporary injunction to prevent the execution of a judgment by the sheriff in favor of Bernard Wiedefield, Gertrude Michel and Louise Ysenberg, in their suits against the Dubuque Homestead society, involving the title to the Oeldeman property at the northeast corner of Eighteenth and Center streets, among other pieces of real estate, has been filed by Henry Oelderman, jr., by his next friend, John Boesen. The writ of execution was issued Tuesday. The petitioner makes the claim that as he was not made a party in the suits mentioned he is not bound by the court decrees. The suits were decided by the district court against the Dubuque Homestead society in October last.

Ground Rent Company Sues.

The Boston Ground Rent trust, composed of John Quincy Adams, Moses Williams, Charles E. Cotting, William Minot and Laurence Minot, has sued John L. and William L. McCague in the district court for $39,394.59, alleged to be due the plaintiffs on rent and taxes for property described as lots 2 and 7, block 88, city of Omaha, extending from Dodge street to Capitol avenue, with a sixty-six feet frontage on both streets, between Fourteenth and Fifteenth streets.

Papers in the suit were filed yesterday by Attorney William Baird with the clerk of the district court, copies of the original lease of December, 1889, and the new agreement of October, 1892, being contained in the complaint. According to the terms of the original lease, which was to hold for fifty years, the McCagues were to pay an annual rental of "111,456 grains of pure, unalloyed gold" in quarterly installments of 27,864 grains or $1,200, and to erect on the property a $40,000 building. By the subsequent agreement the obligation of the McCagues to put up a $40,000 building was modified so as to make it $25,000, but prior to July 1, 1897, they were to deliver 464,200 grains of pure gold, less the amount already paid, and after that an annual rental of 83,592 grains in quarterly installments of 20,898 grains, a provision being also incorporated that the rental could be paid in lawful money of the country at the rate of a dollar to every 23.22 grains.

Of the rent $3,175.16 is admitted to have been paid, the net amount of rent now alleged to be due being given as $38,565, to which is added $4,004.75 for taxes paid by the plaintiffs, leaving a net debt of $39,394.59.

The People's National, Manufacturers' National and Merchants' National banks, the Chicago Furniture company, the W. R. Bennett company, Daniel C. Daley, Henry A. Costers, William H. Eldridge and Anton Rohrig are made co-defendants with the McCagues because of various claims believed to be held by them against the lessees.

Sues on Injunction Bond.

Suit to recover $100 on an undertaking given in a district court case, in which the other parties were unsuccessful plaintiffs against her, has been begun in the county court by Nora Coltrin against Ezra F. Ringer and John F. Helin. They had her temporarily enjoined by the district court in September last from disposing of one of several notes given to her by William Tighe as part of the purchase price of 720 acres of land in Burt county and then lost the suit. She sets up to have been damaged to the extent of the sum of the bond given by them for the temporary injunction.

Mrs. Coder Asks an Injunction.

The attorneys for Mary B. Coder, defendant as tenant, in a suit in Justice of the Peace Eben K. Long's court, successfully prosecuted against her by the Portsmouth Savings bank for non-payment of rent, have applied to Judge Slabaugh of the district court for a mandamus to compel the justice to approve a bond given by her on an appeal from the justice's decision, and the sureties of which he did not consider sufficient. The matter will be heard by Judge Slabaugh this morning. Attorney V. O. Strickler will defend the justice.

Notes from the Courts.

Theo L. Lyon sues M. E. Bickford in the county court for $150 for failing to employ him at the Maine Log Cabin, as he alleges Bickford and Charles Dunbar promised to do, for the period of time the exposition is to last.

The Philadelphia Mortgage and Trust company has filed a claim against the estate of the late Jacob H. Barrett in the shape of a $5,000 mortgage on lot 13, Stewart place.

Claims based on notes of $1,434.75 each against the estate of Mary McCombs, deceased, have been filed by J. Kelly McCombs, George McCombs, Jennie K. McCombs, Rebecca K. Longeay, Sallie H. McCombs and William W. McCombs.

STATE BOARD OF PHARMACY

Official Examination of Candidates in Progress—Forty-Two Suspensions Announced.

The Nebraska State Board of Pharmacy held a meeting at the Millard hotel yesterday, the principal object of which is to examine candidates for registration as pharmacists. The members of the board are all present as follows: Griff J. Evans of Hastings, A. W. Buchheit of Grand Island, H. R. Gering of Plattsmouth, Henry H. Barth of Lincoln and Niels Hansen of Kearney. Thirty-eight candidates, two of whom are women, are taking the examination. The board has announced a list of forty-two suspensions for the non-payment of dues. The next meeting will also be held in this city, at the Millard, at 8 o'clock a. m., September 6.