



The owner of walls left standing by a fire in such proximity to the street as to endanger persons thereon is held, in *Lauer vs. Palms* (Mich.), 58 L. R. A. 67, not to be relieved from liability by the fact that he had told competent architects and builders to do what was necessary to render the walls safe.

The diversion or altered transmission of surface water, caused by the erection of a building upon land over which it is accustomed to flow, is held, in *Jessop vs. Bamford Bros. Silk Manufacturing Company* (N. J. Err. & App.), 58 L. R. A. 329, to afford no ground of action to a person who suffers injury by reason thereof.

The negligence of a driver of an omnibus, in which a picnic party is being conveyed, is held, in *Kopitz vs. St. Paul* (Minn.), 58 L. R. A. 74, not to be imputable to a member of the party who is injured by the overturning of the conveyance, caused by a defect in the street and the contributory negligence of the driver.

Liability as on an implied contract to pay for material furnished for and used in the construction of a schoolhouse is held, in *McGillivray vs. Joint School District No. 1* (Wis.), 58 L. R. A. 100, not to arise against the school district, when the express contract for it proves invalid because the constitutional limit of indebtedness has been exceeded by the district.

Where a testator with three children bequeaths one-half his property to one of them, without mentioning the remainder of the property or the other children, it is held, in *O'Hearn vs. O'Hearn* (Wis.), 58 L. R. A. 105, that no devise by implication arises, but that he dies intestate as to such remainder, and that the child named in the will is entitled to share in it with the others.

A statute requiring a board of education vested with title to all school property within the limits of a city and which receives state aid in the maintenance of its schools, to admit thereto, free of charge, all children living within one-half mile of the city limits, is held, in *Edmondson vs. Board of Education* (Tenn.), 58 L. R. A. 170, not to deprive it of its property without just compensation.

A release for a consideration paid, of one or two persons jointly liable for personal injury to another, from further liability to respond for such injury is held, in *Abb vs. Northern Pacific Railroad Company* (Wash.), 58 L. R. A. 293, to release the other also, although there is an express stipulation that it shall not have that effect. The effect of the release of one joint tortfeasor on the liability of another is discussed in a note to this case.

Where a licensee walking upon railroad tracks was approached by a train, and stepped therefrom to avoid collision, but was pushed upon the rails by a stray cow pasturing on the right of way, it is held, in *Schreiner vs. Great Northern Railroad Company* (Minn.), 58 L. R. A. 75, that the failure of the company to build the statutory fences cannot be held the proximate cause of the accident for which it would be liable to answer in damages.

Not Fully Reconciled.
Mrs. Jessie Benton Fremont, who died recently in California, was one of the best-known women in America during eventful years of national history. A few men are left of those who formed her court when she was a belle in Washington, among them Representative Galusha A. Grow, whose memories of those days the New York Sun prints. I remember Jessie Fremont well, said Mr. Grow. As has been often said in those early days and since, she was "a chip of the old block." In character, in intellect and in disposition she was very much like her father, Senator Thomas H. Benton, of Missouri. Both were believers in the creed handed down by Davy Crockett. "Be sure you're right, then go ahead," and it was the daughter's adherence to it that brought about her marriage with Fremont.

Her father was violently opposed to the union, and threw every possible obstacle in the way, but his arguments, pleadings and threats were alike useless.

After the marriage her father, powerless but not reconciled, went to a newspaper office and handed in a notice announcing the marriage of Jessie Benton to John C. Fremont.

His attention was called to the fact that he had reversed the usual form. "Hang it!" he said, banging his fist down. "It will go in that way or not at all! John C. Fremont did not marry my daughter. She married him!"

His Old Delusion.
There was an old fellow of Me., who was fond of the works of Hall G.

With a wide, vacant smile, he said, "They're good style; alas! the poor man was lame. —Flickertail Flicker.

When a man "talks" about his wife he begins by saying, "Of course I have the best wife in the world; I have no cause for complaint; but—"

A MIRACULOUS ESCAPE.

Three Big Grizzlies Frightened Off by a Trivial Thing.
A writer in *Outing* says that, the grizzly bear, like other ferocious and resourceful beasts, has its superstitious side, which inclines him at times to cowardice, and it was an accidental play upon this weakness which enabled a hunter, James B. Holmes, of Pasadena, Cal., to live to tell the following story:

In August, 1896, Mr. Holmes was chatting with a guide up among the Coast Range Mountains, in San Joaquin Valley, California. As they talked they heard a crackling of twigs behind them. "I believe it's deer," said Mr. Holmes. "No," said the guide; but he changed his mind a moment later, when the crackling became louder.

"They're deer, sure. Look out!" said Holmes, softly.
Both men were then on their feet watching. Mr. Holmes had a rifle in his hands, and he and the guide stood whence the crackling sound came. As they looked, the gray nose of a grizzly was protruded through the foliage, and the men stepped backward. Mr. Holmes is a crack shot, but he had never had experience with grizzlies. However, the nose of the bear made a fine mark, and he raised his rifle to blaze away. He was nearly twenty yards from the bear. Just as he was about to fire there was more crackling of brush, and two other and larger grizzlies thrust their heads through the thicket toward the men. The guide turned pale.

"Don't shoot," he called.
Mr. Holmes lowered his rifle.
"Run for the hill! Run for your life!" yelled the guide.

Mr. Holmes did not catch the instructions to go for the hill, but he ran. Near the crest of the hill was a clump of trees, and he made for them, hoping to find shelter or a hiding place. The bears, with frightful howlings, went bounding over stones and chaparral after him.

The old male grizzly was nearest. Just as Mr. Holmes felt the hot breath of this beast, he resolved to do something desperate. He wheeled round quickly, made a last effort to get his gun into position, and fired. Then he was knocked down.

The bear buried his teeth in Mr. Holmes' right leg just below the hip, tearing open the flesh. The pain was well-nigh killing. The female then came up and made a vicious snap at his ribs, but succeeded only in driving her teeth through a pasteboard matchbox, which ignited the matches. She gave an angry roar, shook her head and snapped at his face, and he gave his head a feeble jerk. It was just in time. He heard the teeth snap in his face with a sound like the closing of a steel trap. Then he swooned. When he recovered consciousness and, rising, reconnoitered the situation, he saw the larger bears, with the cub at their heels, disappearing in the brush. Peeping over the brow of the hill, he perceived the guide, who rushed toward him, saying:

"Thank God, sir, you're alive! It's the narrowest squeeze I ever saw; there was one chance in a million for you to escape alive from three grizzlies. The box of burning matches scared them off."

SHE WAS SLEEPY.

Amusing Little Street Car Comedy With ut Words.

It was late afternoon, and a Twentieth street car was rolling away northward. She was a charming maiden, with a big, fluffy pompadour, sweet blue eyes and a picture hat of many convolutions. She read a little while, and then her head began to droop.

The young man seated beside her became first aware of this when the large ostrich plume in her hat playfully tickled his nose, provoking a sneeze. Several passengers smiled, and then tried to look as if they hadn't. He tried to shift a little further away, but found himself wedged in too tight. He cast a side glance at the maiden; her sleep was becoming sounder every minute.

After that the youth had a narrow escape every other second, on the average. Now her head inclined forward, now lurched back, now swayed to the left, but with invariable constancy it finished these maneuvers by drooping in his direction. Everybody was staring, that was the deuce of it, and the old lady opposite was plainly shocked. He tried an occasional wriggle without result, and to waken the sleeper by any other means was out of the question.

The climax was bound to come, and it came. The maiden heaved a deep sigh, and her head wobbled over so that the fluffy pompadour swept the young man's cheek and the ostrich plume blinded his vision; then it sank squarely down upon his shoulder. The passengers held their breath for a moment, and before a smile had become general the victim, scarlet in countenance, was out on the back platform, and the pretty girl was glancing sleepily around in happy unconsciousness.—Philadelphia Ledger.

His Burning Love.
It was in a country village that the swain had proposed for the hand of the village beauty and had been successful and carried off the palm. He had bought the engagement ring and was hurrying as fast as his two feet would carry him to the home of his adored one. A friend tried to stop him to make inquiry concerning his haste.

"Hello, there, Bob! Is there a fire?"
"Yes," replied Bob, with what breath he had left; "my heart's on fire, and I'm going now to ring the village bells."

FIRE AND FLOOD

NORTH TOPEKA IN THE MIDST OF TWIN DESTROYERS.

SUBURB SEEMS DOOMED

LOSS OF LIFE PLACED AT HUNDRED AND FIFTY.

IMPOSSIBLE TO RESCUE

Helpless Residents Seen Perched on House-tops and Trees Seen Fall Into Water or Made Prey of the Fire.

Topeka, Kas., May 31.—North Topeka is in the grasp of fire and flood. The fire started in the lumber yard district this afternoon and spread swiftly to the partially inundated buildings the people being powerless to stop its progress.

At 9 a. m. four hundred houses are burned and the whole of North Topeka will go.

As near as can be learned about one hundred and fifty persons are dead. Most of these were burned to death.

Burning houses are floating about, setting fire to others. The lower story of the burning buildings contain ten feet of water. The current is so strong that no boat can approach any of the burning buildings.

People are gathered on the tops of houses and will meet death either by fire or drowning. The cries for help can be distinctly heard a mile away. The whole city is wildly excited because of the fact that no aid can be extended to the sufferers. The river at North Topeka is five miles wide. No possible estimate of the financial loss is obtainable, but it can be stated that it will reach into the millions.

North Topeka was a manufacturing district of the city. Three large flour mills, three woolen mills and other manufacturing enterprises are entirely destroyed. The water supply of the city has been cut off. The water from the river extends nearly a mile on the south side. The Rock Island depot has had to be abandoned and more than five hundred people on this side of the river are also homeless, but no loss of life has resulted in South Topeka. The Kansas avenue bridge is the only one across the river for miles, and the approaches to that are flooded by thirty feet of water. A pontoon bridge is being erected in an effort to reach the sufferers.

Seven thousand or more people are on this side of the river sheltered in public buildings. Topeka is now able to take care of all the unfortunate. The work of caring for the refugees is being pushed with the utmost rapidity. Sanding on the state house dome as many as eighty fires can be counted in different parts of North Topeka. The whole central portion of the city had been burned out at 10 o'clock tonight, and it is safe to say that by morning not a house in the main part of North Topeka will be left standing. When it is stated that North Topeka has ten thousand inhabitants the extent of the disaster can be realized.

People are clinging to the roofs of houses and the limbs of trees and many are giving up in despair and dropping into the waters below to be carried away by the swift current. A. P. Baldwin, who at a great risk of his life crossed in a boat to the north side, returned at 10 o'clock tonight and reports that nothing possible can be done to save the city from burning. Miss Iola Troutman, sister of ex-Lieutenant Governor Troutman, was rescued with her aged father, late tonight. The two people had spent the entire day on the roof of their house and were just about to drop into the water when aid came. The county court house and the federal building are crowded tonight with people of all classes. There is no lack of help for anything that is to be done. Men of all callings and professions, white and black together work side by side doing whatever lies in their power. As the water advanced it became necessary to drive carriages and ambulances to the south end of the pontoon in water so deep that the horses had to swim. Among those who took a hand in this work were James A. Troutman, Cyrus Leand politician; pastors of the leading churches, Father Hayden of the Church of the Assumption, the county attorney, the sheriff and his deputies. Several well known journalists distinguished themselves in the work of rescue.

It is death by fire or drowning to 400 unless means can be found for the rescue. Great efforts are being made to construct a stream launch to go to the aid of the sufferers, but whatever is done must be done promptly or the loss of life will be appalling.

A number of trustees at the county jail were liberated by the sheriff to give them a chance to help the sufferers there. One of the trustees named Wetherly was credited with saving five lives on the north side.

BREAKER OF LAW

Presbyterians Denounce the Mormon Church—An Adherent of Polygamy.

Los Angeles, Cal.—The Presbyterian general assembly today unanimously adopted the following resolutions reported by Rev. W. W. Halloway, from the standing committee on home missions, to which the question of Mormonism has been referred:

"Whereas, this hierarchy, the church of Jesus Christ of Latter Day Saints persist in the active encouragement and practice of the crime of polygamy in disregard of their own pledges and oaths to the contrary, in contempt of the ethical convictions of the American people and in defiance of laws and constitutions of the state and the United States and

"Whereas, This hierarchy recently, on January 20, 1903 through the Utah legislature, has had elected to the United States senate a high ecclesiastic, one of its chief authorities. The Apostle Reed Smoot, in direct violation of its pledges to the nation to refrain from interference with the affairs of states, and

"Whereas, This apostle, Senator Reed Smoot, is a direct representative of polygamy, born of its system and in cordial sympathy with it as a divine institution, revealed a law of primary obligations and made mandatory by the most solemn sanctions, and has encouraged its perpetration and practices by his personal influence as an apostle; and

"Whereas, In thus doing this the apostle senator aids and abets criminals, menaces the American people is unfaithful to the laws and constitutions of the United States, pays his first presidency and apostolate to which he belongs, and is a reproach to the honor and dignity of the American people; therefore be it

"Resolved That this assembly most respectfully but earnestly calls on the people of the United States to use their utmost endeavor, employing all means to secure the expulsion of Apostle Reed Smoot from the halls of the national senate, and urges the senate itself and each member thereof to exhaust all legal means to this end.

"This assembly also calls upon the people and the congress of the United States to both houses and each member of each house to employ and exhaust all legal means to secure such an amendment to the federal constitution as shall define legal marriages as monogamic and make polygamy under every guise and practice a crime against the United States punishable by adequate penalties including disfranchisement and disqualification to vote or hold office to the United States or in any state or territory under the jurisdiction of the United States."

Dr. Henry VanDyke presented from the bills and cures committee a resolution, submitted by the committee on home missions reciting the pitiful condition of six or seven thousand Indians on the Maricopa and Pima reservations in Arizona because of lack of water, and urging the secretary of the interior at Washington to "take steps without delay for the erection of a reservoir at San Carlos on the Gila river" for the relief of the Indians. The resolution was adopted unanimously.

Asleep For Twenty Years.

Paris—Marguerite Boyvenal of Melles near San Quentin, who had been in a cataleptic state since May 21, 1883, awakened Wednesday.

For some time past she had been suffering from pthisis and is believed that the effect of this malady on her system conducted to her reawakening.

She moved her hand on Saturday for the first time and groaned slightly. When Dr. Cratier took hold of her arms she said, "You are pinching me" and subsequently replied to questions by "yes" and "no." She was, however, in a state of great weakness and gradually sank, dying the day after awakening.

Marguerite Boyvenal's lethargy was caused by fright. She had a child which died shortly after birth and circumstances which led to the opening of an investigation. One day, May, 1883, while Marguerite was ironing, a neighbor said to her: "The gendarmes are coming to arrest you."

Marguerite had a stroke of fits and gradually fell into her long slumber.

Found to Have Fortune.

St. Louis.—Dr. Francis Tumblety, aged eighty-two, supposed to be poverty stricken, and friendless, died in St. Johns hospital and a will opened after his death revealed that he had left an estate of \$100,000. He made many bequests in his will among them being legacies of \$10,000 each to Cardinal Gibbons and Archbishop Ireland for charitable purposes.

Investigation shows that Dr. Tumblety was one of the pioneer traveling advertising physicians.

SWALLOWS THEM

EARTHQUAKE KILLS SCORES IN VALLEY OF ERZEROUH.

DESTROYS A TOWN

INHABITED BY TWO THOUSAND AND ALL KILLED.

2000 SOULS DIE

Seven Hundred Armenians Among Those Who Perish—Much Havoc Wrought in Surrounding Country.

Constantinople, May 29.—Advice which reached here from Asiatic Turkey showed that a terrible earthquake occurred April 29 at Melazgherd, in the valley of Erzeroum, on the Euphrates.

The town was totally destroyed, with its entire population, numbering 2,000, including 700 Armenians, as well as the troops forming the garrison of Melazgherd. In addition over 400 houses in the neighboring villages collapsed.

A somewhat severe earthquake shock was felt here this morning, but no damage was done.

London, May 29.—The foreign office here today received some details from the British consul at Erzeroum regarding the recent earthquake at Melazgherd, according to which a strong shock, lasting thirty seconds, was felt on April 29, throughout the entire district between Lake Van and the Russian frontier, and as far west as Kharput.

The town of Melazgherd, consisting of 500 houses was destroyed and much havoc was wrought in the surrounding country. Colonel Khail Bey, commanding the garrison of Melazgherd, with his whole family, three other officers and eighty soldiers perished in the ruins. Lieutenant Colonel Tayib Bey, whose family perished, became insane.

The telegraph operator who sent the news of the catastrophe said he himself was badly injured and that his wife and children had been killed. The foreign office has appealed for subscriptions for the relief of the destitute of the Melazgherd district.

Washington, May 29.—Vice consul Oja'voat, Erzerum, Turkey, reports to the state department that an earthquake in the Canton of Melazgherd, district of Fitis, on the 29th ultimo, caused the death of 500 people and left the city in ruins. The shock was strongly felt in Erzerum, a journey of thirty-eight hours and threw the people in a panic. Many of them turned their stables, which are built level with the ground, into sleeping apartments for greater security.

Alleged Deserter Arrested.

Columbus, Nebr.—Emil Hoehn, a young man whose home has always been at this place is under arrest here on the serious charge of deserting from the United States navy.

He enlisted at San Francisco March 5, 1903, and is said to have deserted April 26, returning home ten days ago. To enlist he gave his age as twenty-two years. His father has brought habeas corpus proceedings to secure his release on the grounds that he is only twenty years of age, and therefore not subject to the call of the navy department. The case is set for hearing in the county court. It is supposed that a representative of the government was to be here to resist the habeas corpus proceedings. The arrest was made by Chief of Police who may receive a reward of \$20. Hoehn claims there was a large number of other desertions at the same time and says he does not like naval life.

Glad He is not a Rich Man.

Rockland, Mass.—"I am glad I am not a rich man, I would not change my freedom, home life and content of heart for a wealth of a Morgan or Carnegie," said John D. Long, ex-secretary of the navy at the Rockland Commercial Club banquet, at which he was the guest of honor.

In speaking of socialism, Mr. Long said there had been the respects of the right of property in the past and there always would be. If the reward is taken away there will be no incentive to work.

"Our mothers and grandmothers worked like slaves," he continued, but the life of people today is rendered much more easier by the accumulation of wealth. We live better and have more advantages than they had.

"We are living in the age of socialism, as I understand socialism. I fear no theories, no fanatic, no millionaires, but I do believe in the judgment of God and the everyday people of this country to work out these problems. Wealth is all right, but it is not to be considered for a moment with a clear mind, good health and a clear conscience. The advances that are being made will work for the benefit of mankind."

Nebraska Notes

The Nemaha is overflowing at Falls City and the bottom is covered with water. Much damage will be done to the growing crops. All travel is cut off from the south.

Mrs. Earl Bacon, a victim of the tornado at Norman, was the wife of the brother of George Bacon employed in the Burlington shops at Havelock. The brother was also injured in the storm.

Joseph Mathews of Weston, was brought before the examining board today on complaint of citizens of that town and adjudged insane. He is forty-five years old and single. Sheriff Webster took him to the asylum at Lincoln.

Invitations have been issued by Mr. and Mrs. William Redford, for the marriage of their daughter, Miss Mezzie T. Redford, to Mr. Howard Colman on Wednesday, June 10, at high noon, at their home in Seward.

Summer school at Peru, opened Monday with enrollment of 300. The largest enrollment of all previous summer schools is exceeded. Students are coming in on every train. The school is largely made up of teachers.

J. B. Penrod of Beatrice is reported to have been seriously injured at Florence, Kansas while enroute east with a car of poultry. A ton of feed was piled up in one end of the car with timbers from floor to roof to hold it. In switching the car around it jammed so hard that the braces gave way and Penrod was caught under the feed.

Louis Keezer, of Plattsmouth a boy of seventeen years of age, pleaded guilty in district court this morning to the charge of grand larceny and was sentenced to the Kearney reform school. Keezer was accused of stealing \$40 from Henry Inhelder of Cedar Creek. He went to Neligh, Neb., where he was captured by the officers.

A valuable horse which was stolen from Joseph Lynn at Union several weeks ago has been located by the local officers. It was found in the possession of a farmer named Christian, residing near Ashland. The farmer claimed that a stranger brought the animal to his place and that he traded another horse for it.

A heavy rain and windstorm played havoc in Omaha early today. The tracks were rendered useless at the Union station and an engine pulling the Union Pacific fast mail was derailed by the soft track, blocking two west bound passenger trains which were unable to move until the tracks were repaired. A number of roofs were blown away in the southwest portion of the city.

The Seward high school gave a reception for Mr. and Mrs. W. W. Stoner on Tuesday evening at the home of Mr. and Mrs. R. S. Norval. Invitations were extended to the members of the school board and the teachers of the city schools. The hall and dining room of the Norval home were prettily decorated with the high school colors. Mr. Stoner has been superintendent of the Seward schools for the past three years. He will leave Seward to take care of the York schools. Mr. and Mrs. Stoner have made many friends in Seward during their stay in the city.

C. O. Elger, of North Bend, had a disagreeable and dangerous experience on a muddy road near town. While he was driving over a bridge one wheel of his buggy slipped off throwing him out. He held to the reins and after being dragged some distance stopped the horses. After making repairs he drove on until a single tree gave way, the horses broke loose and the vehicle came to a sudden stop, hurling him over the dashboard and overturning the buggy. The softness of the ground prevented him from receiving any hard knocks, but he was covered with mud from head to foot.

Mrs. Bess Gardner Morrison, of the school of expression at Nebraska Wesleyan University, gave a post graduate recital at the Wagon chapel Monday night. The program, violin solo, Miss Elizabeth Misenner, readings, "Ancestrion of Cuba" and "She of the Trip"; piano, Mrs. Morrison; piano solo, Mrs. H. C. Swallow; readings, "The First Leaf" and "Polly Pods"; Mrs. Morrison. The character work and impersonations of Mrs. Morrison were especially good.