Latest News of Interest from Couth Dakota's Mineral District.

RICH ORE IN YELLOW CREEK DISTRICT

Shipment Last Year Amounted to \$182,000 and This Year's Output Will Undonbiedly Be Much Greater.

LEAD, S. D., April 25 .- (Special.) - One of the richest mining districts in the Black Hills is on Yellow creek, and one of the richest mines is the Wasp No. 2, which is owned by William McLaughlin, D. A. with Governor McCord requesting that com-McPherson, John Blatchford and John Gray pany G of this city be retained in Nogales of Deadwood The ore is sillelous and large and distinct veins have been blocked out sufficient to keep the present large force of miners at work for years to come. The shipminers at work for years to come. The ship-ment of ore last year amounted to \$182,000 that the bad element of southwest Arizona and the amount will be coesiderably larger and New Mexico will make the frontier this season. About 400 tons of ore are being shipped from the mine each mouth, which has an average value of \$50 a ton

Considerable interest is being awakened in the Queon Bee district, a comparatively new Numerous ore fissures are exposed which give promising returns from assays. The development thus far has not been extensive for lack of capital.

A two-foot vein of silicious ore has been struck in the Squaw Creek company's shaft, on Squaw creek, at a depth of fifty feet. Indications are that it is the beginning of a large ore shoot which will widen out to considerable extent as depth is attained. The company owns sixteen full claims. Fred Harris of Dealwood is the general manager. During the week Two Bit has been in conshale in the Great Eastern, which formation is supposed to overlay the body of ore. Seth Bullock, the general manager of the

Belle Fourche Smelting and Refining com-pany, has returned from the Twin Cities. A preliminary survey is being made where he has been getting the affairs of the company before the people. The build-ing of the smelfer at Belle Fourche is prac-Very thorough development work is being

owned by capitalists of Lemars, Ia., and parties in Custer and Deadwood. The vein that is being followed is exceptionally rich and the prospect is considered flattering.

The Rainbow company owns some valuable land on the divide between Blacktail and Carden City. It is one of the coldest that it is one of and Garden City. It is one of the oldest mining districts in the Hills. In 1878 a tunwas run 250 feet on the south forty-one volunteers.
of the claim with the intention of finding free milling ore.

A vein of silicious ore was found hear the face of the tunnel running from \$8 to \$10 a ton, but the ledge has

never been prospected. Higher up on the ground quartite ore has been found which, by mill treatment, went from \$17 to \$25 a For a distance of nine miles along Castle creek, in Pennington county, both placer and quortz mining is being carried on this spring in an extensive manner. The discovery of strong veins of ore in the Horn-

will be shipped to the mines as soon as the wagon road is a little better. Drummer group of mines, eight miles west of Custer. The property is owned by a Milwaukee company, which also owns the Aetna mine. A working shaft has been sunk sixty feet on the ore vein and drifts run north and south from the bottom of the shaft which avecage a vain of free milling contribute. shaft which exposes a vein of free milling Gentile valley.

Aberdeen Wants the Encampment.

ABERDEEN, S. D., April 25.-(Special Telegram.)-The city council met in special session this afternoon and tendered to the state through Governor Lee use of the fair ample, buildings suitable; there are plenty of water and good railroad facilities and because of the patriotism of the citizens of Aberdeen. Jowett Bros., wholesale grounds are have wired a proposition. grounds and buildings thereon for the pur-pose of encampment of the national guard at any time and how far they are from difpay the expenses, provided the state troops are mobilized and drilled on the Aberdeen grounds. Citizens have purchased a \$100 flag for Company F of this city.

OPPOSE THE ARID LAND BILL. Protest of Live Stock Men Against

Cession to the States. CARBONDALE, Colo., April 25 .- (Special.) -The following resolution was passed by the Roaring Fork and Eagle River Live Stock association at its annual meeting held

this association, assembled in regular meeting, that it would be a great hardship on members of this association, and in their judgment be harm ul to the general welfare of the entire live stock industry of the state, to have the lands commonly called arid lands, and now owned by the United States, ceded to the state of Colorado, or the laws of the United States changed or amended relating in any way thereto. In our district all its is available for the homes of our people that can be made to produce are open to entry under the laws. The grazing lands are available to all alike, and under the present laws the small stockman has the same access to the public this association, assembled in regular meet- here. man has the same access to the public range as have the large cattle companies, and it is the opinion of this association that as soon as these so-called arid lands are offered for sale that it will be only a question of a few years until the small brands of cattle will disappear from our valleys and the large herd of cattle syndicates appear. We therefore protest against the law governing these public ranges being amended, and ask our representatives in both houses of congress to use their best efforts to defeat any measure contemplating any change in the present laws, and further that a copy of this resolution be furnished each of our senators and congressmen and published in the stock papers of the state, and ask all live stock associations in the state to join us in protesting against any laws contemplating private ownership of the public ranges of the state of Colorado."

Street Fair and Carnival.

ATCHISON, Kan., April 25 .- (Special.)-This city will have a street fair on the 20th and 21st of September, followed by the corn carnival on the 22d. Arrangements are being made to enlist the enthusiasm of farmers in this vicinity. The farmers have refused to take any interest in the corn carnival, and it is believed they will be of great assistance in making a street



MINING IN THE BLACK HILLS fair a success. The street fair will be held on Kanses avenue. Booths will be erected in the middle of the street and along the sidewalks, which will be rented to exhibitors of articles of every kind.

No Fish Elterary Bureau. ST. JOSEPH, Mo., April 25 .- (Special.)-The Missouri fish commission sat down on the literary bureau of Colonel John T. Crisp the literary bureau of Colonel John T. Crisp and that institution is no more. The other commissioners refused to pay one cent of the \$150 bill rendered by Colonel Crisp. They were unable to find that he had done anything in the literary bureau. Peace will reign in the meetings of the fish commission henceforth. It is expected the next meeting will be in this city, and it is not expected that Colonel Crisp will be present. He announced in the meeting that he intended to resign.

Fear Sympathizers with Spain-NOGALES, Ariz., April 25 .- (Special.)-The mayor of Nogales has communicated to protect the city against possible invesion by pro-Spanish sympathizers in Mexico. It is the expectation of the citizens of this place that as soon as hostilities have to the governor.

Wyoming News Notes

William Stephens of the Gilchrist ranch has sold to Bresnahen & Smith 100 head of three-year-old steers at \$47 per head. A company has been formed to engage in the manufacture of nickel steel at Sheridan company has seventy locations of the nickel ore, each being from twenty to thirty feet wide, and it is expected that 500 men will be employed.

It is believed that a vein of good cooking coal has been found in close proximity to the beds of red hematite iron and limestone so abundant near Rawlins. If the combination is proven it will mean a bi-iron plant in that town at a early date. Herman Glafcke of Cheyenne has gone to Washington to place before the War depart-During the week Two Bit has been as the State of process of preparing and canning meat for use by troops in the field, and is said to A preliminary survey is being made by the Union Pacific corps of engineers for a pipe-line from the Platte river near Fort Steele to Rawlys. The intention of the company is to put in a pumping plant at the tile of the works was selected the river and establish a permanent water this week within the city limits of Belle s stem for its use at Rawlins and for the

The second annual memorial day celebradone on the Lizzle group of mines, located a mile and a half northeast of Custer and interstate affair. Wyoming, Montana and

> Idaho News Notes. Elmore has organized a fire company with

Pocatello will have a three days' Fourth of July celebration and Bannock county fair. Ex-Governor McConnell is likely to be the republican candidate for governor of Idaho this year.

gone up the river to bring down the epring long drive. The Idaho sheep owners complain there is no local demand for wood, and that they have to ship to markets outside of the

A large gang of men from Bonner has

etate Sinking on the Golden Fleece and Golden blende district has been the means of bring-ling a great many prospectors and miners and the ten-stamp mill, now at Boise City,

A Map of Cubn for Ten Cents.

The Bee is giving its subscribers a chance to keep posted on the movements of troops and cruisers by means of its combination map. The map of Cuba shows all the towns, railroads and divisions, while from the map of the West Indies and map of the world you can locate just where the war ships are

Funeral of R. A. Wherry. FALLS CITY, Neb., April 25 .- (Special.)-Funeral services over the remains of the late R. A. Wherry were held at the Methodist church Sunday afternoon, under the auspices of the Mosonic fraternity. The lodge met at their hall and marched to the resi dence in a body, headed by the military band. The Eastern Star also particlapted. Rev. Abbott of the Methodist church con-ducted the servise, assisted by Rev. Davis of Hiawatha. The floral offerings were very fine. Mr. Wherey was one of the oldest set tlers in the county. He had filled many po-sitions of honor and trust since his residence

Funeral of Martin Claney. CEDAR RAPIDS, Ia., April 25.—(Special Telegram.)—Many prominent members of the Order of Railway Conductors and other railroad organizations were here today to attend the funeral of Martin Clancy, grand secretary and treasurer of the conductors who died Friday pight. The funeral services were conducted by Apollo Commandery, Knights Tempiar.

William Robinson.

SCRIBNER. Neb., April 25 .- (Special.)-William Robinson of Pebble was taken sick Friday. After suffering until Sunday afternoon the died. Mr. Robinson was an old settler of this county, coming to Pebble about thirty years ago. He leaves a family of grown children and a widow. The funeral

William Sexton, Billiardist. NEW YORK, April 25.-William Sexton,

INSTRUMENTS placed on record Monday,

WARRANTY DEEDS.

Hudelson, lots 9 and 10, block 137, same
M. L. Fisher to Arthur East, lots 11 and 12, block 8, subdiv of block 20, Albright's Choice
Andrew Gerharz and wife to A. B. Green, 35,390 fact in se corner of lot 2, block 122, South Omaha.
T. Somerset company to Barclay White, e% of lots 3 and 4, block 83, Omaha
E. J. Richardson to Emma Von Wasmer, w 25 feet of lots 19 and 20, Thornell's add (except n 10 feet of lot 19). Wellington Rich and wife to Harrison National bank, n 40 feet of lots 1 and 2, Omaha View.

QUIT CLARE DEEDS.

QUIT CLARE DEEDS. J. Rasmussen to Arthur East, let block 5, Matthews' subdiv. J. Martin to J. T. Hudelson, lots and 10, block 137, South Omaha.... DEEDS.

R. Van Tuyi and wife to R. H. Denny, lots 1 and 2, block 30, Flor-

Total amount of transfers

President's Official Family.

Resignation Taken to the Morning Session of the Cabinet-Judge Day Succeeds

Mr. Sherman.

WASHINGTON, April 25.-Another resign nation from the cabinet occurred today when the venerable secretary of state, John Sherman, handed in his resignation to the president at a special meeting of the cabinet, called together at 10 o'clock. This resignation takes effect with the close of the day and with it Mr. Sherman retires from public life after a service of over forty years, embracing the house of representatives, the

bille after a service of over forty years, embracing the house of representatives. In the United States senate, the secretaryship of the treasury and the secretary of state. The reson for the resignation is the condition of the secretary of the resignation is the condition of the secretary of state. The secretary is neath, which is now in the public service, and the artiuous labor to the public service, and the service, and the artiuous labor to the public service, and the service of the secretary sensition against label; Company, affirmed.

The secretary's resignation was tendered was concluded at 11.30 and 11.30 an

Only a moment later the president re-turned, and the State department was so advised. At 12:15 the messenger appeared the president in the cabinet room. It was

formally accepted this afternoon.

The letter is very brief, only occupying a few lines, tendering his regignation, to take effect at as early a day as to suit the president's convenience. Secretary Day will succeed Mr. Sherman. DAY'S SUCCESSOR.

NEW YORK, April 25.—John Bassett Moore, who will be appointed first assistant secretary of state to succeed Judge Day; is Hamilton Fish's professor of international law and diplomacy in Columbia university. He was born about forty years ago and was graduated from the University of Wirghela in 1880.

Kee Mechanics Insurance Company against Fuller, Box Butter County against Driscoll, Fuller, Box Butter County against Driscoll, Fuller, Box Butter Company against Elliott, Box Butter Company against Elliott, Box Butter Company against Fuller, Box Butter Company against Elevation against Fuller, Box Butter Company against Fuller, Box Butter Com

Virginia in 1880. Immediately after his graduation he studled law with Judge (now Senator) Gray of Delaware and upon being admitted to the bar about 1883 entered the State department at Washington as a clerk, having ob-tained the position by being one of the first in the list on the civil service roll. He and diplomacy and became an authority in the department. He worked through the various grades until he was made assistant

Secretary of state.
On May 6, 1891, he accepted the call to Columbia university to his present position. Secretary Blaine objected to him leaving and induced the university to grant him leave of absence for a year, so that he did not enter Columbia until 1892. Mr. Blaine offered to

make him first assistant secretary, but he preferred to enter the university.

Two days ago he was telegraphed, calling him to Washington. President Low advised him to accept the place and granted him a year's leave. President Low said today that the university could not well spare Mr. Moore, but it was now a matter of patriot-CANTON, O., April 25 .- Judge Day, accom-

panied by his son Luther, reached Canton at 10:25 a. m. today. He looked as if in good health. As he stepped from the train the Associated Press correspondent informed him of the resignation of Secretary Sherman. When asked if he would accept the place, he replied simply: "I will take the matter under consideration." While Judge Day declined to talk for publication, the Associated Press correspondent believes it can be announced as a fact that under existing cir-cumstances Judge Day will accept the secretaryphip if the president nominates him and the senate takes favorable action. It is known here that Judge Day made a great business sacrifice when he accepted the place of assistant secretary of state. He has not felt that he could afford to take a cabinet portfolio, but under present circumstances it is not believed that he feels he ought to

REVENUE BILL IS TO LIE OVER. Democrats Want a Chance to Ex-

amine Its Provisions. WASHINGTON, April 25.-The war rev-WASHINGTON, April 25.—The war revenue tariff bill will not be reported to the house today. At the meeting of the ways and means committee this morning, when the bill framed by the republicans was formally presented for consideration, the democrate protested earnestly against a program that would prevent them from resembled. will take place from the residence tomor- and means committee this morning, when crats protested earnestly against a program that would prevent them from examining its formerly professional champion billiard provisions thoroughly before it was reported player, dropped dead today. He was 505 to the house. They also acked for an opportunity to offer amendments in committee.

After some discussion it was decided that the bill should be gone over today, the republicans explaining its provisions and estimated revenue, etc., and stated that tomorrow the democrats should be allowed to offer amendments. The bill will be reported to the house tomorrow, but its consideration to the house tomorrow, but i Wednesday, probably will not begin until Wednesday. The democratic members of the committee have a substitute for the bond amendment.

It is as follows: To coin \$50,000,000 of the seigniorage in the treasury into standard silver dollars, to issue \$50,000,000 of certificates of indebtedness at a low rate of interest and to institute an income tax of 3 per cent on all incomes of

second or the same has seen quashed, questions and signed by the mayor; and a section thereof providing that the ordinance should be in force from an after its passage.

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Mr. McMillin is entrusted with the drawing of the lacome tax provision.

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SHERMAN QUITS THE CABINET

ment of cowboys and mounted riflemen, to be raised by Mr. Roosevelt and Dr. Wood, the president's family physician, who is now in the medical department by the regular army. Dr. Wood will be colonel of the regular army. Theodore Roosevelt has resigned as ussistant President's Official Family.

ment of cowboys and mounted riflemen, to be raised by Mr. Roosevelt and Dr. Wood, the president's family physician, who is now in the medical department by the regular army. Dr. Wood will be colonel of the regular army. Suckstorf against Butterfield. Error from Pierce county. Reversed. Invine. C. 1. A plaintiff in repievel, who pleads only a special ownership, must prove such title

the president's convertance, after the com-mence of active military operations. MONEY TO PAY THE BLUE JACKETS. TAKES EFFECT WITH CLOSE OF THE DAY

> Secretary Authorized to Enlist Men for the War. WASHINGTON, April 25 .- An amendment has been adopted to the naval bill appropriating \$8,830,000 to enable the secretary of the navy to enlist men for the navy during the existing war. The bill then passed the senate.

Ohio Battery on Waiting Orders. CLEVELAND, O., April 25 .- Captain Mc Connell, Battery A. First artillery, received the following telegraphic order from Colum-"Assemble your command inbus today: stautly at armory to await further orders. SUPREME COURT PROCEEDINGS.

LINCOLN, April 25 .- Minutes of the las sitting of the supreme court:

against MacFarland, Same against Sheldon, Provident Life and Trust Company against Denals, Gillet against Moss, Black against McKieley Lanning, Loan and Trust Company, Liotions to affirm overruled, Chicago, Burlington & Quincy Railroad Company against Kellegg (two cases), rehearing allowed; Oldig against Fisk, motion to modify judgments overruled; Stewart the aring anowed, congregated; Stewart against Demming, Phoenix Insurance Company against Slobodisky, Gaylord against Nebraska Savings Bahk, Slobodisky against Phoenix Insurance Company, Paoenix Insurance Company against Fuller, Milwau-Lee Weekenies, Insurance Company against e Mechanics Insurance Company agains

Hartlett against Jahsen, Elgutter against Kemp, Nebraska Telephone Company against Wooley, dismissed; State ex rel Savage against Letton, reargument or-dered.

dered.

Court adjourned to May 3, when the following cases will be called: Karvy against Woods; School Supply Company against Lincoln School District; Alling against Fisher; Murphy against Warren (two-Fisher; Murphy against Warren (two-cases); Flower against Nichols; Accident Association against Day; Omaha against Standard Oil Company; United States National Bank against Westervelt; Pliger against Marder; Beet Sugar Company against Hallam against Telleren; Gruver against Walkup; Kuhns against Omaha; Fairbanks against Welsanns; Burr against Charles; State ex rel Vale against School District; Lincoln Manufacturing Company against Hutchins; T. L. V. Land and Cattle Company against Benedict; Maul against Drexel; First National Bank of Sutton against Grosshams, (two cases); Elsley against Wilde; Ewings against Hoffine; Omaha Savings Bank against McCarthy; Sheffield City Company against Ruffin; Bettman against McConnell; Scoutt against Walt; Latimer against State; Ogden against Rosenthal; Rush against State; Ogden against Rosenthal; Rush against State; Lackey against State; Kokes against Koupal; Bradley against State; State ex rel Patterson against Wenzl; State ex rel Rosewater against Hocomb; First National Bank of Hastings against Farmers' and Merchants' Bank Platte Center; State ex rel Savage against Letton,
Omaha & Republican Valley Railroad

Letton.
Omaha & Republican Valley Railroad Company against Crow. Error from Valley county. Affirmed. Irvine, C.

1. A petition under Lord Campbell's act, which alleges that the deceased left a widow and next of kin, describing them, on whom the law confers the right to be supported by the person killed, sufficiently avers pecuniary loss, and in that respect states a cause of action.

2. A railroad company which issues a through ticket, and so contracts to carry a passenger beyond its own terminus, constitutes the connecting carrier its agent for the purpose of performing the contract, and is liable for the negligence of such connecting carrier.

3. A shipper of live stack, who receives

is lable for the negligence of such con-necting carrier.

3. A shipper of live stock, who receives from the railroad company undertaking the transportation of such stock a free pass, to enable him to care for his stock in transit, assumes such risks and inconveniences as necessarily attend upon caring for such stock, and, modified accordingly, the liability of the railroad company to such shipper for

such dangers as result from his peculiar duties walle the railroad is being carefully operated.

5. By accepting such a pass the shipper does not become the servant of the railroad company, and is not within the fellow-servant rule.

6. A general averment of negligence is sufficient unless attacked by motion, and an issue framed by a traverse of such averment may be proved by evidence of any act within the general averment.

7. Evidence neld sufficient to sustain the verdict, and instructions found to have been correctly given and refused.

8. The submitting to the jury of special interrogatories is a matter resting in the discretion of the trial court.

German National Bank against the Farmers' & Merchants' Bank of Holstein. Appeal from Lancaster county. Reversed. Harrison, C. J.

1. If there is no bill of exceptions in the record or the same into seen quashed, questions which, for their examination, require reference to a bill of exceptions, cannot be considered.

2. "The word 'ascertained' in section 4.

Suckstorf against Butterfield. Error from Pierce county. Reversed. Irvine, C.

1. A plaintiff in replevin, who pleads only a special ownership, must prove such title as he pleads it, and cannot recover on proof of general ownership.

2. Therefore, where plaintiff asserts only such special ownership. the defendant may to defeat the action snow that plaintiff's title is of a different character.

Pickle Marble & Granite Company against McClay. Error from Lancaster county. Reversed. Norval, J.

1. One who furnishes a contractor for the erection of a court house with materials used in the building may maintain un action for their value on the contractor's bond gyen to the county as security for

riais used in the building may maintain an action for their value on the contractor's bond gven to toe county as security for the performance of his contract, requiring inter alia the contractor to satisfy all lawful claims of laborers and material men.

Pioneer Fire Proof & Construction Company against McClay. Error from Lancaster county. Reversed. Norval. J.

One who is not a party to a contractor's bind may maintain an action thereon, when such bond was executed for his benefit.

McCormick Harvester Machine Company against Miller. Error from York county. Affirmed. Norval J.

1. It is those contracts made under fear of unlawful arrest, and not those executed under fareat of lawful imprisonment, which can be avoided on the ground of duress.

2. A contract, the consideration of which, in whole or in part, is the compounding of a felony or the stifling of a criminal prosecution, is contrary to public policy, illegal and void.

3. The payment of money on an agreement to compound a felony cannot be considered as a ratification, since the contract was illegal and void, and incapable of ratification.

Farmers' Loan & Trust Company against Schwenk. Appeal from Madison county. Affirmed. Norval, J.

1. Under the exemption laws of fais state, a judgment is not a lien on lands occupied as a homestead, where the debtor's interest therein does not exceed \$2,000.

2. Where, under a decree foreclosing one of two mortgages of equal priority given to plaintiff in one transaction and covering the same lands, the appraisers erroneously

sengers while being transported over its road, except in cases where the injury done arises from the criminal nealigence of the person injured," etc., has no application to street railways.

Missouri Pacific Railroad Company against Lyons, Error from Douglas county Re-

Lyons, Error from Douglas county, versed, Norval, J., and Regan, C. 1. Evidence examined and held to sustain the jury's finding that the death of plain-tiff's intestate was not caused by his neg-2. When one enters the employment of another agreeing to serve him for a stipu ated salary or wage, he thereby assumes-

in the absence of an express contract to the contrary—the ordinary perils incident to that service; and included in these is the liability to injury at the hands of a negligent fellow servant.

3. The general rule is that where a master is not guilty of negligence in the selection for retention of servants, nor in furnishing them with suitable appliances for the performance of the work in which he employs them, he is not answerable to one of them for an injury caused by the negliof them for an injury caused by the negli-gence of a fellow servant walle both are engaged in the same work in the same de-partment of the master's business.

4. Where two switching crews are in the employ of the same railway company, sub-

lect to the control and direction of the s yard master, no member of either of said crews having any right of control or di-rection over any member of the other crew, both crews simultaneously engaged in switching the same cars from one part to another of the same switch yard, then, the another of the same switch yard, then, tace
two crews and the members thereof are
consociated in the same department of duty
or line of employment, and each member
of one crew is the fellow servant of caca
member of the other crew,
Farmers' Mutual Insurance Company
asainst Home Fire Insurance Company.
Error from Douglas county. Affirmed. Regan. C.

gan, C. 1. Section 42, chapter xliii, Compiled Statutes 1897, construed and held to apply only to an insurance policy in force; a valid and subsisting contract between the insured and the insurer; to have no reference to a contract of itsurance which has ceased to exist by reason of the violation of the provisions thereof by the insured.

2. Where an insurer has rightfully declared an insurance contract at an end, because of the insured's obtaining additional insurance on the insured property without the consent of the first insurer and contrary to the provisions of the first policy. tional insurance on the insured property without the consent of the first insurer and contrary to the provisions of the first policy, such insured has no cause of action against the insurer for the unearned premium.

Fowell against Binney, Errar from Wayne county, Affirmed, Ryan, C.

In view of the facts that a real estate broker gave a memorandum in writing to one who thereon calims rights as a purchaser of real property, in which memorandum it was recited that the propused sale was subject to the approval of the owner of the real property and that, from the entire evidence adduced in the case, it was shown that there was a prompt disapproval of said terms when submitted to the owner of the real property, it is acid that the district court properly instructed to the owner of the real property, it is acid that the district court properly instructed to jury to return a verdict against said claimant.

Johnson against Finley, Appeal from Douglas county, Affirmed, Ragan, C.

1. Until a county treasurer has made a return to the county clerk of his county of the public sale of lands for taxes held by him in pursuance of section los, chapter laxely Committed Statutes 1857, he cannot

of the public sale of lands for taxes held by him in pursuance of section 408, chapter ixxvii. Compiled Statutes 1897, he cannot make a valid private sale of lands for the delinquent taxes due thereon.

2. Where a private tax sale of real estate is invalid because of the failure of the county treasurer to first make such return, fine purchaser thereat is subrogated to the rights which the public had against such real estate and entitled to enforce a lien against the same for the taxes paid at the sale and for all prior and subsequent taxes existing against the real estate and paid by him because of such purchase. (Adams against Osgood, 42 Neb., 459, fol-Adams against Osgood, 42 Neb., 450, fol

a. The public cannot be deprived of its revenue nor its lien for taxes against prop-erty because of the mistake of a tax col-lector in not collecting all that is due lector in not collecting all that is due against such property.

4. The failure to publish an ordinance of a city of the metropolitan class—"An ordinance making the annual levy of taxes for the city of Omaha for the year 1822"—in the official newspaper thereof, as required by section 123, chapter xiia, Compiled Statutes of 1836, did not prevent such ordinance from becoming a law, it loaving been duly passed and approved and signed by the mayor; and a section thereof providing that the ordinance should be in force from an after its passage.

is not a penal statute and there exists no reason for a requirement that it be strictly construed.

2. The right to recover double the amount of usury paid to a national handing association is, by section 5198, Revised Statutes of the United States, conferred as well upon artificial as upon natural persons.

Petersborough Savings Bank against Pierce, Appeal from Douglas county, Revised, Ragan, C.

1. It is a seneral rule that where two unequal estates vest in the same person at the same time, without an intervening estate, the smaller is thereupon merged in the greater.

2. But merger does not always or necessarily result from such a coinciding of such estates.

3. Whether the bao estates will be held to have coalesced will depend upon the facts

such estates.

I. Whether the bao estates will be held to have coulesced will depend upon the facts and circumstances in the particular case, the then intention of the party acquiring the two estates and the equities of the parties to be affected.

I. The mortgages of a real estate mortgage securing a negotiable note soil and assigned the same, but the assignment was not recorded. Subsequently the mortgage obtained a conveyance of the legal title to the real estate on which the mortgage was a lien. Afternands, and before the maturity of the mortgage debt, a creditor of the mortgage attached the real estate, purchased it for value at the attachment sale, occurred a sheriff's deed therefor and filed the same for record. The creditor had no knowlege that the mortgage had been assigned, but supposed the mortgage owned it and that it had merged in the legal title acquired by him. No communication whatever to k place between the mortgage and the creditor concerning the mortgage unsatisfied upon the record was of fixely suf-satisfied upon the record was of fixely suf-satisfied. (1) that the presence of the mortgage satisfied upon the record was of itself satisfied upon the record was of itself suf-ficient to put an intending purchaser of this real estate upon inquiry as to the where-abouts of the note which the m rigage se-cured, and as to whether such morizage had been satisfied by merger or otherwis; (2) that the presence of the morizage un-satisfied upon the record was notice to an intending purchaser of the real estate that the morigages intended at the time he ac-quired the legal title to keep the two es-tates separate.

The doctrine of caveat empter sales.
6 Except when controlled by the registry acts, a purchaser of real estate at execution sale acquires only the interest which the execution debtor had in such real estate when the lien attached on which it was Generally a sheriff or master's deed con-

vers only the estate which a quit elater deed from the execution debter to the purchaser would have conveyed had it been made and delivered at the date when the lien attached under which the judicial sale S. One who purchases the legal title to

S. One who purchases the legal title to real estate from a mortgage thereof—th mortgage securing a negotiable unmatured note being of record—is not a purchaser adthout notice, within the meaning of the recording acis, and entitled to protection against such mortgage, then in the hands of a bona file purchaser thereof, although no assignment of such mortgage is of record.

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