ATTORNEY FOR PROTESTANTS DISSENTS

A. G. Allick is Made Administrator to Succeed B. N. Robertson, Who Denies Mrs. Jones Was Unduly Influenced.

New and unexpected sevelopments in the lithritation incident to the probation of the will and codicil of the late Sophronia widow of A. D. Jones, Omaha's first postmaster, occupy the attention of the county court. The heirs signed an agreement to drop the suit, but counsel for the protestants oppose this.

The petition asking for the probation of the will and codicil was filed in December and the hearing in the case has been put off from time to time, Tuesday morning being the last date named, but at that time Judge C. A. Baldwin said he was not ready since he had not been notified that other parties in the case had intended to introduce certain affidavits and that he should be given time in which to inspect them so as to be ready to conduct an examination of witnesses orderly and in-

Upon hearing this objection Judge Vinsonhaler granted a stay in the proceedings until this morning, but when the attorneys appeared in court today it was found that the heirs to the Jones estate had been in conference with their attorneys Tuesday evening and at that time had signed papers looking to an amicable settlement

Baldwin is Surprised. Judge Baldwin was greatly surprised to

learn of this proceeding. He at once repaired to his office to talk over the matter with his clients and the statement was made that an effort would be exerted have the agreement which the heirs had signed Tuesday evening annulled and declared void and have the case proceed before Judge Vinsonhaler in accord with the agreement reached Tuesday morning

Judge Baldwin and his clients were exected to make a report to the court during the morning, but up to noon the various attorneys and heirs waited listlessly about the court house, but Judge Baldwin failed put in an appearance and what disposition will be made of the case is now a matter of conjecture.

A. D. Jones and his wife, Sophronia Jones, previous to their deaths, drew up wills which were identical in every partic ular. The same legatees were named in each will. If Mr. Jones died first his property was to pass to his wife and vice versa, and after their death the property was to pass to certain heirs which had been named as legatees under the wills of both the hus-

Mr. Jones Dies First.

Mr. Jones died first and the property passed to his wife. Just previous to her death, Mrs. Jones at that time being nearly so years of age, drew up what is alleged to be an improvised and improper codicil wherein certain other parties than those named by both Mr. Jones and Mrs. Jones in their identical wills were named as legatees of the estate.

When it came to a hearing on the petition asking for the probation of the will and codicil both were protested on the ground that Mrs. Jones had been under undue influence at the time she drew up the codicil. B. N. Robertson had been named as executor of Mrs. Jones' estate and was on hand Tuesday morning prepared to make a refutation of the charge that Mrs. Jones had been unduly influenced

Tuesday evening, however, the heirs induced to sign papers looking to a settle- had a tragic climax last night when the ment of their differences and putting an end to the controversy by consenting to the house on Franklin street. Mrs. Valois is probation of the will. Expressions of disatisfaction with the executor were voiced. as Mr. Robertson's successor.

But now that Judge Baldwin and his clients have changed their minds about the agreement which was signed Tuesday evening, it is expected the case will be tinued and that the protest against the probabtion of the will will be urged before

CAUTIONED TO BE CAREFUL

Verdict in Case of Rev. Elwood Whose Sermon is Alleged to Have Caused Lynching.

WILMINGTON, Del., Feb. 2.-Rev. Robert A. Elwood, pastor of the Olivet Presbyterian church of this city, who was tried today by the Newcastle presbytery or charges growing out of the sermon entitled "Should the Murderer of Miss Helen Bishop Be Lynched," was found guilty of three of the specifications brought against him. A committee of five was appointed to fix punishment, and at a late hour tonight s committee, after some deliberations, ended that Rev. Mr. Elwood be autioned to be more careful in the future.

If You Have These Symptoms Send for My Book.

If you want to feel better,
If you want more strength,
If you lack ambition,
If you lack ambition,
If you lack ambition,
If you lack confidence in yourself,
If you hack confidence in yourself,
If your nerve—your courage—in leaving you,
If you lack vim, vigor, vitality,
If something is eating away your constitution,
If it is not for the book you need.
The book tells of my discovery. Tells how after
airty years I found the cause of these symptoms,
and many others, given above.
The book tells how by scientific experiment I
raced out the causes that bring an chronic diseases.
It tells how I perfected my prescription—Dr. Shoop's
kesterative.

tells how I perfected my prescription—Dr. Shoop's sterative.
found invariably that where there was a weaksound invariably that where there was a weakso, the inside nerves were weak. Where there
s a lack of vitality that the vital nerves lacked
were. Where weak organs were found, I always
and weak nerves. Not the nerves rommonly
pught of, but the vital organs' nerves, the lostde
he invisible nerves.
Take was a revelation. Then my real success be-

en I combined ingredients that would giben, that would vitalize these perven. That cription I called a restorative. It is known the d ever how as Dr. Shoop's Restorative. After I did not fall to cure one case in each hun-lin the extremely difficult cases my failures five years were one in each forty treated. I d cancer incurable. Cancer is for surgery, not laine.

isine.

It is now to get this prescription to sick once y where was my thought. I must announce it he public press. But, thought I, will they realthe truth of my discovery—the read power of Shoop's Restorative? Then a way came to mean inspiration. "I will offer it to the sick on . Then they will know i am sincere."

Wrote a reliable druggist in each city and village America. They agreed to co-operate with me. by any sick one

Dr. Shoop's Restorative

ian be taken on trial. For a full month I will you use it entirely at my risk, seed no money. Just write me for the book you d. When I send it I will tail you of a draggist of the who will permit the month's trial. I see the draggist "It did not help me," that will ree you of any expense whatever. He will bill to cost to me. cost to me.
his is my way of clearing your mind of all doubt
to what lir. Shoop's Rastorative can do. No
iter how prejudiced, you cannot dispute this abute security I offer. You cannot resist an offer
a this if you are at all size.
I you have a weakness, write me. If you can't
things like you used to do them, tell me about

Write in confidence. As a physician I will tellgen a way to help. Get my book new-today.

Simply state which Hook I on Dyspapeis.

Book you want and adBook i on the Kidneys.

Book of or Wannes.

Book for Man (seeled).

Book t on Rheumatism.

In an interview with Mr. Elwood after the announcement of the verdict he said: My view of the finding is embodied i my view of the inning is embodied in the sentiment expressed to me by a promi-nent member of the presbytery: "This is a complete vindication of Elwood, for the presbytery did not dare punish you in any way, because you are too useful a man."

NO AGREEMENT ON MINE SCALE Both Miners and Operators Supposed to Be Down to Their Last Concession.

INDIANAPOLIS, Feb. 3.-After another day of argument no agreement has been reached by the scale committee in the joint conference between the miners and operators in the central competitive district. The operators have abandoned their specific demand for a 15 per cent reduction wages, but insist on a "substantial decrease." The miners have, it is understood, decided to abandon their first demands and will agree to a compromise, renewing the present scale and contract. A subcommittee of sixteen has been appointed, consisting of two operators and two miners from each of the four districts. Both the operators and the miners believe that the two sides have come down to the concessions that they will make at this time. The general belief among the operators is that the miners will make no further concessions and that even if their officers and scale committeemen should report back to the 567 miner delegates from the four states, who are being held in In-

n a roll call vote. Officials of the miners claim this evening that the operators of Ohio, Illinois and Indiana have agreed to their propositions to renew the present scale, but that the operators of Pennsylvania are making rigorous objection.

dianapolis, a recommendation that a 5, \$

or 10 per cent reduction in wages be ac-

cepted the recommendation would be lost

Dispatches from Trinidad, Colo., stating that the United 'Mine Workers' union has withdrawn financial support from the strikers in the big strike in Colorado and had repudiated all bills and contracts of the district officers were shown to President John Mitchell of the United Mine Workers' union today. He said that contrary to the report from Trinidad, the organization, in the convention that had just closed pro vided for more funds and for more liberal support of the Colorado strikers. He said that there was no truth in the report,

THREAT TO DYNAMITE ROAD Blackmailer Makes Demand for Ter Thousand Dollars from the Lehigh Valley Route.

HAZLETON, Pa., Feb. 3.-Details of an illeged dynamite plot along the Lehigh Valley railroad, twenty miles north of White Haven, came to light tonight T. H. Pindell of Wilkesbarre, superintendent of the Wymoring division of the Lehigh Valley road, last week received an anonymous letter saying if \$10,000 was not deposited at Lake Station on the Wilkesbarre mountain between 1 a. m. Saturday and the same hour Sunday morning that section of the line would be blown up. Sheriff Albert Jacobs was notified and he, with a posse, patroled the tracks twentyfour hours, but no attempt was made to carry out the threat. A guard is still maintained by the railroad company between Fairview and Lake Station

BRIDE AND GROOM ARE DEAD End Life Because Parents Disapprove Marriage and Turn Them from Home.

SAGINAW, Mich., Feb. 3.-The wedding Valois of Company H. Twenty-sixth United named in the will were got together and States infantry, and Miss Mabel Steiner young couple took poison in a rooming dead and her husband is in a critical conhowever, and A. G. Ellick was agreed upon the parents of the young couple. They dition. The match met the disapproval of go and had decided to die together.

Frisco, leaving Birmingham at 12:30 today. was ditched near Tupelo, Miss. Every car left the track and rolled down an embankment, except the engine and cafe car. Assistant superintendent's office has no further information. No one was killed, but several persons were injured.

SEASONABLE FASHIONS



LADIES' DRESSING SACK.

No. 6019. The dressing sack is one of the robe and, having once learned their use, no woman will be without a few pretty ones, that may be hurriedly slipped on in the early morning or perhaps for afternoons at home when one feels that a tight dress would be uncomfortable. In the pretty design shown here the chief characteristic is the square collar with stole ends. This charming feature gives breadth to the shoulders and the stole effect in front overcomes that square appearance that so often makes one look "dumpy" in a dressing sack.

The fullness in the front is given by pleats on the shoulder and the back may be laid in a Watteau pleat or gathered. The sleeve may be in flowing or bishop style. For a simple, yet pretty, dressing sack this is an admirable model to follow. Not only are woolen goods and silk suita able to the mode, but it is desirable for "tub" dressing sacks. Made up in red albatroes with cream-colored tace, it is very effective and stylish.

Sizes 32, 34, 36, 38, 40 and 42-inch bust. For the accommodation of The Bee readers these patterns, which usually retail at from \$ to 50 cents, will be furnished at a nominal price, 10 cents, which covers all expense. In order to get a pattern enclose 19 cents; give number and name of pattern.

DISPUTE OVER JURISDICTION

Fire and Police Commissioners Repel A. leged Encroachments of Councilmen.

SAYS LATTER WANT TO CHANGE HOURS Desire to Curry Political Favor with

Firemen Ascribed to Connellmen Accused of Overstepping Bounds.

A clash between the council and the Board of Fire and Police Commissioners is threatened because of the activity of several councilmen in their anxiety to make friends with the men of the fire depart-The point of difference is the matter of jurisdiction, and members of the board have declared that they will seriously resent any more interference in what they

call their domain. The latest factor that has contributed to this feeling is the encouragement offered by Councilmen Schroeder and Evans to members of the fire department who want a different method of apportioning the twenty-four hours off duty each man is allowed a week. At present the day is divided into three shifts, two of six hours each and ope of twelve. The firemen, or number of them, want two lay-offs of twelve hours each.

Councilmen Schroeder and Evans have advised the men to gct up a petition and present it to the council, it is said, with the assurance that favorable action will be taken.

Board Opposition to Plan. The board, on the other hand, believes that such a division of the "offs" would result in a partial demoralization of the service, inasmuch as the hours are now arranged as recommended by 'Chief Salter, who does not like the proposed change. Recently the council "dippe1 in" fire department matters by ordering in a number

Recently the council "dipped in" fire department matters by ordering in a number of stoves and hot water apparatus in the various houses, without consulting with the commissioners. Said one of the latter:

"There is altogether too much desire on the part of some of the councilmen to curry political favor with the firemen. At every opportunity they seem inclined to step in and make this or that provision for the benefit of the men, without asking the board whether or not it is for the best interests of the zervice. Reveral cases of this kind have been allowed to go unnoticed, but this last proposition is cutting in too deeply, we feel. The council, should it attempt to regitiate the hours of the men, is stepping altogether too far, and such interfarence will not be submitted to."

SUPREME COURT SYLLABI

The following opinious will be officially reported:

12241. Vogt against Darry. Appeal from Thurston. Reversed instanter. Kirkpatrick, C. Division No. 3.

If the plaintiff in an action die after judgment, but before satisfaction thereof, no valid execution can be had upon the property of the judgment defendant until the judgment has been revived in the manner provided for in section 42 of the Code of Civil Procedure.

12261. Van Antwerp against Lathrop. Error to valid execution can be had upon the property of the judgment defendant until the judgment has been revived in the manner provided for in section 42 of the Code of Civil Procedure.

12361. Van Antwerp against Lathrop. Error to valid execution can be had upon the property of the judgment defendant until the judgment has been revived in the manner provided for in section 42 of the county.

1256. Van Antwerp against Lathrop. Error to be expensed by either side, the formal provided for in section 42 of the Code of Civil Procedure.

1267. Although it is only inferentially alleged that the size of payment was raised in a foreclosure case, yet a petition for a new trial states good ground for such action which sets forth a fraudulent crasure of a cancellation of

If the plaintiff in an action die after judgment, but before satisfaction thereof, no valid execution can be had upon the property of the judgment defendant until the judgment has been revived in the manner provided for in section 472 of the Code of Civil Procedure.

1224. Van Antwerp against Lathrop. Error from Custer. Affirmed. Hastings, C. Division No. 1.

1. Although it is only inferentially alleged that the issue of payment was raised in a foreclosure case, yet a petition for a new trial states good ground for such sction which sets forth a fraudulent crasure of a cancellation of a mortgage and perjury by the prevailing party as to the cancellation and the crasure of it and due diligence by the other party and inability to discover it is time for the trial.

2. Where such a petition fails to set forth that the facts were not discovered within

that the facts were not discovered within

two years of the trial, and falls to show any reason for extending the two years allowed by statute for setting aside judgments for fraud. equity is powerless to relieve.

12282 Hull against K. C. & O. R. Co. Error from Kearney. Affirmed. Oldham, C. Division No. 1.

1. Where a railroad company purchases land by warranty deed and uses it for right-of-way and depot purposes, it has the exclusive right to the possession and use of all of such lands as against the owner of adjacent lands.

ieft a letter saying that their parents had turned them out and they had no place to go and had decided to die together.

FRISCO EXPRESS DITCHED

Entire Train Except Engine and Diner Goes Down Embankment, but Passengers Escape.

BIRMINGHAM, Ala., Feb. 2.—It is reported here that a westbound train on the Frisco, leaving Birmingham at 12:30 today, all of such lands as against the owner of adjacent lands.

2. It is for the railroad company and not for the adjacent owner to determine how much of these lands is necessary for depot and right-of-way purposes.

2. It is Grandin against First National Bank Chleago. Appeal from Douglas, Affirmed. Sedswick, J.

1. A plaintiff who has obtained an attachment upon specific real estate in this state, and recovered judgment thereon, may maintain an action in equity to set aside a fraudulent conveyance of the real estate by the judgment defendant without the issuing and return of a general execution upon

the judgment defendant without the issuling and return of a general execution upon such judgment.

2. In an action in equity to set aside a fraudulent conveyance of real estate in this state, and enable the plaintiff to enforce his attachment and judgment thereon against the land, amendments to the petition, alleging that the judgment defendant had also fraudulently transferred to the same grantee all his property situated beyond the jurisdiction of the court, but not describing any of the property so transferred or otherwise identifying it, will not give the court jurisdiction to subject property and assets cutside of this state to the payment of the judgment, no general execution upon such judgment having been issued and returned unsatisfied.

2. After plaintiff in attachment has recovered judgment and an order for the sale of the attached real estate, and has begun an action in equity to set aside a fraudulent convevance of the real estate, the discharge in bankruptcy of the judgment defendant will not defeat such action.

4. If such action he set aside a fraudulent convevance is pending for several years, it is not a defense that the holder of the legal title has made valuable improvements thereon, while the action was pending, being led by the delay in brinsing the action to trial to suppose that plaintiff's claim would be abandoned.

5. Ubon an appeal in equity this courf will try the issue de nova, and will not be influenced in its decision by the findings of the trial court hased upon denositions or other witten evidence. The conclusions of the trial court hased upon denosition of other witten evidence. The conclusions of the trial court hased unon denosition of the trial court in welshing such evidence, they appear to be right. Faulkner assinst Sims. Nebraska 34, N. W. Report, 195.

5. Evidence in the case found to support the general finding of the trial court.

6. Evidence in this case found to support the general finding of the triel court. 1270. Reed against Reed. Appent from Douglas. Affirmed. Barnes. C. Division

No. 2.
1. An action to determine property rights not growing out of the meriage relation cannot be joined with an action for directed to a petition, a such causes of action are joined in a petition, a secure therein for misjoinder of causes of action should be sus-

In a suit he a married man against wife to declare a trust in his fever out extents of which she is in more against to make the law it to a not a which the law it the law it is a not

180 , 60a , \$1. All druggiste

to quiet the title thereto in himself, the husband is not a competent witness. 1277. Reed against Reed. Appeal from Douglas. Affirmed Barnes, C. Division No. 2.

13.73. Reed against Reed. Appeal from Douglas. Affirmed Barnes, C. Division No. 2.

1. What sum the husband may be required to pay his wife during the pendency of a divorce suit as temporary allmony expense money and counsel fees, to enable her to properly defend the action are matters within the discretion of the district court.

2. Where a petition for a divorce contains a second cause of action for the settlement and adjudication of property rights, not growing out of the marriage relation, a demurrer for misjoinder of causes of action should be sustained.

3. After a demurrer for a misjoinder of causes of action has been sustained and the plaintiff files a new petition and again inserts therein allegations relating to the second cause of action, a motion to strike such allegations should be sustained, and the objectionable matter thus eliminated from the pleading.

4. It is entirely within the sound discretion of the district court to require the husband to pay the sums of money allowed the wife as temporary alimony and counsel fees in a divorce case to enable her to make a proper defense, as a condition precedent to the right to further prosecute his action. And an order reculring such payment does not conflict with any right guaranteed him by our constitution.

1322. Brumbaugh against Jones. Appeal from Lancaster. Affirmed. Barnes, C. Division No. 2.

1. A creditor, whose claim has not been reduced to judgment, and who has neither a general nor specific lien on his debtor's property, is not entitled to have such property impounded as security for the claim, nor is such creditor entitled to an injunction restraining his debtor from disposing of some or all of his property.

2. Mere insolvency and inability to reach a particular fund by garnishee process, are not sufficient to take a case out of the general rule above stated.

2. Whenever, on the trial of a creditor's action, it appears that the plaintiff has a remedy at law, the equitable proceedings should be dismissed.

1332. Cady Lumber Co. against Conk

Division No. 3.

1. Where materials are furnished by a subcontractor to the head of a firm having the
contract for the erection of a building, and
in its statement for a lien such subcontractor ammes only the individual member
of the firm with which it dealt as the contractor, and where there is nothing to indicate that the owner or other parties
claiming liens on the premises were misled
or injured by the failure of the subcontractor to correctly state the firm name of
the contractors, such subcontractor's lien
will not be held invalid because of such
error.

dressing the jury must be objected to when the language is issued and a ruling of the trial court procured on such objection and an exception saved to the ruling to make the objection available in this court.

7. Action of the trial court in giving and refusing instructions examined and approved. proved
8. In an action for personal injuries where
substantial damages are proven but the
verdict of the jury appears to be excessive,
the error must be corrected by a proper
remittitur of the excess directed by the
district court or by this court on a proceeding in error.
9. Quantum of damages examined and
held excessive and a remittitur of \$1,000
directed.

2. Quantum of damages examined and held excessive and a remittitur of \$1,000 directed.

12318. State Savings and Loan Association against Johnson. Error-from Lancaster. Affirmed. Hastings, C. Division No. 1.

1. An appeal bond signed only by the judgment debtors, if approved by the judgment debtors, if appeals to confer judgment debtors, if appeals debtor in the appeal and the account is harmless error where the objection was pending for no offer or application to be allowed to furnish a sufficient bond.

13369. Vradenburg against Johnson. Appeal from Douglas. Affirmed. Barnes, J.

Technical objections on the confirmation of a judicial sale, where the matters complained of are not shown to have resulted in any prejudice to the rights of the person making the objections, should be disregarded.

13375. Nebraska Land and Feeding Company against Trauerman. Error from Cherry. Reversed, Barnes, J.

1. The matter of permitting the filing of amended pleadings at any time during the trial is confined to the sound discretion of the district court, and unless it clearly appears that the court has been guilty of an abuse of such discretion its orders in that behalf will not be disturbed.

2. Where a contract of sale has been consummated by writing the presumption is that the writing contains the whole contract and in absence of fraud, mistake or ambiguity of expression in the contract fiself parol evidence is inadmissable to change or vary its terms.

2. If an instruction be given not called for by the evidence and which appears to change or vary its terms.

2. There one has made represe directed.
13318. State Savings and Loan Association

proceeding be void.

will be void.

2. A resident taxpayer, without showing any interest or injury peculiar to himself, may enjoin illegal expenditures by a public board or officer.

3. In an action by a resident taxpayer to enjoin an illegal expenditure by a pubto enjoin an illegal expenditure by a pub-lic board or officer the plaintiff will not be required to show what the amount of the expenditure would have been if the law had been obeyed.

J. C. Ayer Co., Lowell, Man.

• Cherry Pectoral

ers "I had two patients in the last stages of consumption. I prescribed Ayer's Cherry Pectoral, and today they are well and able to do their daily work."—Dr. C. C. ALMOND, Horsepen, W. Va.

You can hardly find a home without this splen-

did cough medicine. Parents know what it

does for children: breaks up a cold in a single

night, wards off bronchitis, prevents pneu-

monia. Wise physicians advise parents to keep

it on hand; wise parents follow the advice.

AN ALL STAR PERFORMANCE

WORTH \$28.00 a seat if given in an Opera House. You can give it in your own home with an Edison or Victor Talking and Singing Machine for a few cents a performance. The greatest songs of these great artists: Calve Plancon Scotti Adams

Garbin

Michailowa, De Luca, Battistini, Kristmann, Note, De Lussan, Campanari Also World's Greatest Bands. Our Great Terms

De Lucia Ackte

Most complete stock of records in the west-ALL NOTHING DOWN KINDS-ALL PRICES. WRITE FOR CATALOGUE. THE BEST OFFER YET Pay us for records and take the phonograph home, beginning to pay for it 30 days later in Nebraska Cycle Company,

FROM \$15.00 UP

This offer is made to everybody.

Caruso

Giraldoni

Tamagno

Delmas

Geo. E. MICKEL, Manager.

15th and Harney Streets.

Telephone 1661.

Renaud

HIDDEN CITY CONTEST

There are the names of a number of cities both in the eastern and western hemispheres in the Want Ads in The Bee. Prizes will be awarded to the persons making the largest and most correct list according to the following conditions Read the Conditions carefully.

CONDITIONS:

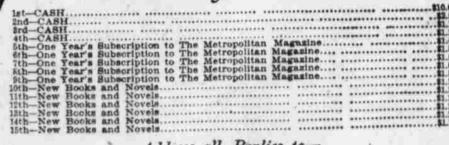
A 16 30 30 30 30

Take a sheet of paper-write your name and address at the top-cut out the ad-paste it on the sheet-underline the name of the city, and underneath the ad write the name of the state or country in which it is located. If the name of the city appears more than once it is only necessary to put it down once. Do this for one week, beginning Monday, February 1st, and ending Sunday, February 7th. Do not mail your answer until your list is complete, including the names that appear in the want ads in the issue of Sunday, February 7th, otherwise your answer won't be counted. If you use more than one sheet, write your name and address at the top of each sheet, mark the number of cities found and underlined at the top of each sheet. The first prize will be given to the person making the largest most correct list-the second to the next largest, and so on. In case of a "tie" the person sending in answer first as shown by postmark on the envelope will be given preference.

All answers must be sent by mail, and no answer will be considered which is mailed later than Monday, February 8th.

No one connected with The Bee Publishing Co., will be allowed to compete for a prize.

...List of Prizes...



Address all Replies to-

"Want Ad" Department, Omaha Bee, Omaha.

