ECCENTRICITIES OF GENIUS

Strange Models of Freak Inventions to Be Found in the Patent Office.

CRAZY OFFERINGS OF HUMAN BRAINS

Succession of Devices Designed to Benefit Mankind Require as Much Attention as Meritorious Articles.

The craziest offsprings of the human brain may be found in the freak inventions which go forth from the United States patent office. Almost daily some inventive genius offers a model of something which will benefit the world at large, and perhaps within the same hour some lunatic seeks a patent on some rattle-brain idea which he avows will cause men to live 600 years if they will follow his instructions on "the perfect system of physical culture."

They are a study, these freak models, ideas and suggestions, and yet the examiners in the several divisions are required to give the same careful consideration to the "patentable" merits of each and every freak application as they would to the most valuable offering of Edison or any of the other great inventors.

President Lincoln was among the first to offer an impracticable device—an unsinkable steamer, the model of which is still among the assets of the patent office in the freak model room. Mr. Lincoln sought and obtained a patent on his steamer in 1849, but the patent was all he ever got, the "unsinkable steamer" proving a rank failure. Soon after this patent was issued another man came along with a "velocipede boat," and it shared the same fate as the unsinkable steamer. An eccentric inventor's model is for a life-saving appliance, a chair in which a shipwrecked person has only to lash himself firmly and float in ease and comfort, supporting life with a supply of hardtack stowed in a drawer in the chair. There is a corset with airtight compartment, designed for life-saving purposes.

Boring Through the Earth.

Another man of large ideas contrived and perfected a machine for boring through the earth, and this model is still a terror, a nightmare, for certain examiners in the office. Still another had a scheme for signaling and talking to the people of Mars, his plan being to have a grand illumination by means of fireworks simultaneously all over the globe. A man from California, who believed it not impossible to visit Mars, submitted a model of a wooden man with wings, in shape and movement like those of a bird. The wings are strapped on to the shoulders by a band that goes over his chest and comes out under his arms. There is a tail, also, like a bird's, and the wings and tail are controlled by the inward movement of the arms, and are harnessed to them by straps. There are a number of other freak models, or models of freak flying machines. Prof. Langley has not yet made application for his "bussard," and, since the War department has declined to put up more money for the professor's experiments in aerial navigation, it may be several years before his application is filed.

An inventive genuis, evidently impressed with the necessity of getting down to business in the early hours of the morning, patented a bed which he guaranteed capable of wooing the sleeper all through the night, but when time came to get up it would turn into a diabolical fiend and hurl the sleeper mercilessly on the floor. The model of the bed looks like a wholesome, motherly bed, full of gentleness and repose, but it is not, and "bucks" like a bronco at the proper time.

Call Box in a Coffin.

Should one not be exactly ready to take the last long sleep, a man from New York has patented a "buried alive coffin," so arranged that the whilom dead man can get out or call assistance. The model shows an ordinary burial box, at the head end of which is a square opening, which receives the lower end of an elongated box or trough large enough to permit a man to crawl through. This trough is set on end, the lower end over the face and chest of the alleged dead man, and the other projects a foot or more over the top of the grave. A wooden stick or arm is nailed to one side of the upper or outer end, upon which a bell is hung. To this bell is attached a cord, which runs down the trough and is tied to the man's hand in the coffin. In case of his waking up—if he is not thoroughly dead—a slight movement will suffice to ring the bell, and the sexton can do the rest—dig him out.

Perhaps a far more practical model is that of a hand sewing machine, designed for sewing on patches to worn and torn garments. It looks like a pair of large sciasors, and is worked up and down like the blades of shears. Could the machine prove practical, patient and overtaxed mothers could have their small boys march up in regular order and have the patch put on "while you wait." But the small boy, as well as the small girl, is abundantly looked after by the freak inventor, there being more than 8,000 models of patents issued for their benefit and amusement, toys, of course, taking the lead. Here is the doll baby which sucks a bottle, the doll which says "Please give me a penny," the doll with inside machinery which enables it to walk around the room, and hundreds of similar dolls. Almost everything which man has been able to do, men have made toys to repeat almost perfectly.

A Metallic Cat.

A man who really wanted to benefit mankind patented a sheet iron cat, a feline which works by clockwork, and which has a bellows inside of it which swells up its tail and causes sounds to emit which would awake an entire neighborhood. The cat's claws are of steel, and when the animal is wound up and placed on a roof it is ready to deal death blows to every midnight prowling cat in seven blocks. Still another man was given a patent on a pasteboard cat covered with phosphorus so that it shines in the dark and is used for frightening off rats and mice. There are luminous matchboxes and luminous ghosts to scare away robbers, these latter to be used in burial grounds and cemeteries where ghouls are in the habit of visiting. There is an umbrella which can be changed into a pipe, and an innocent looking walking cane has a glass inside which will hold one-half pint of whisky, recommended by the inventor as a "most convenient and useful article for use in prohibition states."

Just now, when the suburban citizen is getting ready to plant his garden, it might be well for him to investigate the patent "chicken hobbler," a device to be attached to a chicken's leg and which will force it to move onward if an attempt to scratch is made, and will make the most persistent old hen walk right out of a garden. There is also a patent machine here for forcing nonlaying hens to produce eggs. This is a ready made nest with three false—not faulty—eggs placed in it, and the inventor says that a hen with the least ambition would not refuse to lay after she had a look at the tempting nest.

The short preacher or the long preacher will find a pulpit made for just "his size," it being arranged so that by pressing a button it can be moved to any height desired. In the same row of models is a "lovers' gate," which will swing both ways and which can be raised or lowered to suit the size of the lovers. St. Cecilia has had many remarkable imitators, judging from the models of musical instruments. A violin with a horn attachment is a fair sample, the horn being at the neck of the instrument. There is a combination instrument representing almost an entire brass band. A violin maker has a patent on a violin made entirely of hardened glue, and believes that he has solved the question of tone producing violins.

The wisdom and the foolishness of man's intellect can be well studied by an examination of the models in the patent office.—New York Tribune.

ENEMIES OF THE WHALE

Mammoths in Alaskan Waters Encounter Huge, Back-Breaking Foes.

While operating a fishery in Admiralty island, Alaska, last summer, my attention and the attention of the fishing crew was almost daily attracted to a large marine creature that would appear in the main channel of Seymour canal and our immediate vicinity. There are large numbers of whales of the species rorqual there and the monster seemed to be their natural enemy. The whales generally travel in schools and while at the surface to blow one would be singled out and attacked by the fish and a battle was soon in order.

It is the nature of the rorqual to make three blows at intervals of from two to three minutes each and then sound deep and stay beneath the surface for thirty or forty minutes. As a whale would come to the surface there would appear always at the whale's right side and just about where his head would connect with the body, a great, long tail or fin, "judged by five fishermen and a number of Indians after seeing it about fifteen times at various distances," to be about twenty-four feet long, two and one-half feet wide at the end and tapering down to the water, where it seemed to be about eighteen inches in diameter, looking very much like the blade of the fan of an old-fashioned Dutch windmill.

The great club was used on the back of the unfortunate whale in such a manner that it was a wonder to me that every whale attacked was not instantly killed. Its operator seemed to have perfect control of its movements, and would bend it back till the end would touch the water, forming a horseshoe loop, then with a sweep it would be straightened and brought over and down on the back of the whale with a whack that could be heard for several miles. If the whale was fortunate enough to submerge itself before the blows came the spray would fly for a distance of 100 feet from the effect of the strike, making a report as loud as a yacht's signal gun.

What seemed almost remarkable to me was that no matter which way the attacked whale went, or how fast (the usual speed is about fourteen knots), that great club would follow right along by its side and deliver those tremendous blows at intervals of about four or five seconds. It would always get in from three to five blows at each of the three times the whale would come to the surface to blow. The whale would generally rid itself of the enemy when it took its deep sound, especially if the water was forty fathoms or more deep. During the day the attack was always off shore, but at night the whales would be attacked in the bay and within 400 yards of the fishery.

I do not know of any whales being killed, but there were several that had great holes and sores on their backs. Questioning the Indians about it, I was told that there was only one, that it had been there for many years, and that it once attacked an Indian canoe and with one stroke of the great club smashed the canoe into splinters, killing and drowning several of its occupants.—Forest and Stream.

NOTES ON OMAHA SOCIETY

One of the prettiest of the spring weddings was solemnized Wednesday evening at 8 o'clock at the home of Mr. and Mrs. George N. Strawn, 1213 Georgia avenue, when their daughter, Miss Cleda Strawn, was married to Mr. Nathan Roberts of Kansas City. About forty guests witnessed the wedding service, which was read by Rev. Robert Yost, the bridal party standing under a marriage bell of greens in the palm-banked bow window of the rear parlor. The wedding march, the Bridal Chorus from Lohengrin, was played by Master Frank Strawn, the bride entering the room with her father, who gave her away. She was gowned in her graduating dress of white Persian lawn and carried a shower of bride's roses. Mr. and Mrs. Roberts left Wednesday evening for their wedding trip, to be at home after May 10 at Kansas City. Among the out-of-town guests present were: Miss Maude Compton of Cedar Rapids, Neb., and Mrs. Grace Scheer of Missouri Valley, Ia.

For Miss Blanche Bourke of Salt Lake City and Mrs. Robinson of Rock Island, who is Mrs. William T. Burnes' guest, Mrs. John A. McShane gave tea yesterday afternoon to about fifty guests. Yellow daffodils and yellow candles trimmed the rooms and the tea table. The hostess was assisted by Mrs. William Tracy Burns, Mrs. Charles T. Kountze, Mrs. E. S. Westbrook, Miss Higginson, Miss Carita Curtis, Mrs. E. C. McShane, Miss Belle Dewey, Miss Brady, Miss Wakefield and Miss Gore.

Mrs. F. P. Kirkendall gave a handsomely appointed luncheon yesterday in compliment to Mrs. Walker of St. Louis.

Miss Wakefield is spending a few days visiting friends in Lincoln previous to her departure for St. Louis. She will return to Omaha Monday.

Mrs. S. G. Strickland and Mrs. Wilson Lowe and Mrs. Lyman, who have been at Excelsior Springs, returned the early part of the week.

Mrs. William Cockrell has gone to St. Louis for a visit of several weeks with friends.

Mr. and Mrs. C. L. Lyons and daughter, Miss Katherine, have gone to Salt Lake City.

Mr. George Strawn left Thursday evening for Chicago, where he will make his home in future. Mrs. Strawn and son Harry will join him there soon.

Mr. and Mrs. J. W. Towle are at home in their new residence, 211 South Thirty-sixth street.

Mr. and Mrs. W. J. Burgess left last evening for Kansas City to attend the derby Saturday.

Miss Varolyn Leeder has returned from Des Moines, accompanied by her sister, Mrs. Joel Griffiths.

Mr. and Mrs. John Fenton will leave for the coast via train No. 5, Union Pacific, Friday. Mr. Fenton will return in thirty days, while Mrs. Fenton will remain on the coast for several months on account of ill health.

Mrs. Samuel Burns left yesterday for the east and is spending several days with her daughter Mrs. O. T. Eastman, at Evanston, Ill., before going to New York.

Mrs. Encell and daughters left Wednesday for a month's visit in Colorado.

Mrs. Henry Blum has returned from a two week's visit in St. Joseph and will resume her at home days Tuesday.

SUPREME COURT SYLLABI

The following opinions will be officially reported:

13536. Meinhardt against Newman. Appeal from Thayer. Affirmed. Oldham, C. Division No. 1.

1. It is not a hard and fast rule, that an agency shall be deemed to have been revoked for all purposes by the death of the principal as against those dealing in good faith with such agent, without knowledge of revocation and within the scope of his actual and ostensible authority.

2. Evidence examined and held sufficient to sustain the judgment of the trial court.

13545. South Omaha against Ruthjen. Error from Douglas. Remittitur. Fawcett, C. Division No. 2.

1. Instructions given and refused examined and held to be without prejudice.

2. Persons who have resided for several years and own property in the immediate neighborhood of property alleged to have been damaged by grading a street in front of such property, and who seem upon examination, to be well informed of its situation, condition and value, are competent witnesses on the question of its value.

3. Where the plaintiff in an action does not pray for interest, none can be recovered.

13564. Smiley against Sioux Beet Syrup Co. Appeal from Dakota. Reversed. Kirkpatrick, C. Division No. 2

1. A corporation issued bonds in the sum of $35,000, to secure which it executed a mortgage in the name of a trustee. Bonds to the extent of $17,000 were disposed of, the proceeds being applied to the satisfaction of the corporation's indebtedness. Subsequently a stockholder on behalf of himself and all the other stockholders made application to the court for the appointment of a receiver, no notice of such application being served upon either the trustee or any of the bondholders, who were not made parties to the proceedings. Held, that the receiver's certificates issued for expenses incident to the receivership were not a lien superior to that of the mortgagee.

13567. Moores against State ex rel Dunn. Error from Douglas. Affirmed. Hastings, C. Division No. 1.

1. While the courts in the exercise of a sound discretion will not issue the writ of mandamus, even to vindicate a technical right, where more harm than good will result through its interference with municipal administration, such considerations are addressed to the trial court. Only in a clear case of abuse of discretion would the granting of a mandamus be reversed for such a cause.

2. Where a number of prosecutions have failed to bring about the closing of a public gambling house, the existence of the remedy by complaint and arrest on warrant of the offenders will not prevent a writ of mandamus to require the mayor and chief of police of a metropolitan city to use their summary power to prevent such open violation of law.

3. The statutes of this state require the mayor and chief of police of such city to actively interfere to prevent or stop open violations of law.

4. That one of two relators, asking a mandamus, admits that his leading motive in assailing a "poolroom," whose closing was the object sought, was the belief that a certain citizen, who had actively assisted its operation, was interested in its profits, is no ground for reversing a judgment in favor of the relators.

5. Evidence held to sustain the district court's conclusion that the "poolroom" in question was a "room to be used or occupied for gambling within the statutes of the state of Nebraska."

13534. Second Presbyterian Church of Pawnee against First Presbyterian Church of Pawnee. Appeal from Greeley. Affirmed. Albert, C. Division No. 2.

1. The mere misnomer of a legatee or devisee does not render the gift void, if from the context of the will or proof dehors the instrument it can be ascertained who was actually intended.

2. Where one claiming as devisee under a will is not designated therein by his proper name, he may show that he is also known by the name used in the will to designate the devisee, although the name of another claimant exactly corresponds to the name thus used.

3. In such case there arises a latent ambiguity, which may be removed by evidence of circumstances tending to show which of the two claimants the testator intended as the object of his bounty.

4. Evidence examined and held sufficient to sustain the decree of the district court.

13218. Adams County against Kansas City & Omaha Railway Company. Error from Adams county. Reversed. Albert, C. Division No. 2. Barnes, J., dissenting separately.

1. An elevator is a storehouse within the meaning of Sec. 29, Art. 1, Chap. 77, Compiled Statutes, 1899.

2. The phrase "outside of said right-of-way, etc.," in the proviso to said section qualifies only the word "property" immediately preceding it and not the specific terms used in the enumeration of other classes of property therein.

3. By virrtue of such proviso, elevators situate on the right-of-way of a railroad are subject to assessment by the local authorities and not by the state board, and that they may be necessary for the successful operation of the road is immaterial.

4. The owner of such elevators can not escape local assessment thereon, and terms levied in pursuance thereof, by voluntarily listing and returning them for taxation to the auditor of public accounts and the payment of the taxes levied by the state board.

13484. Colin against Topping. Appeal from Otoe county. Reversed. Albert, C. Division No. 2.

1. Where the water of a river gradually recedes, changing the channel of the stream and leaving the land dry which was theretofore covered by water, such land belongs to the riparian proprietor.

2. Where, at the time of a grant from the United States, the bank of a river formed a part of the boundary of the grant, subsequent accretions, formed by the gradual recession of such bank, attach to and become a part of the grant.

3. A subsequent conveyance by such grantee, without describing such lands by metes and bounds, but by the number or numbers by which the same are designated in the government survey, passes the title, not only to the land originally constituting the grant from the United States, but to the accretion thereto.

4. No title by adverse possession can be acquired against the state or general government, nor is land the subject of adverse possession while the title is in the state.

13491. Cudahy Packing Company against Roy. Error from Douglas. Reversed. Letton, C. Division No. 2.

1. A master is bound to use such care as the circumstances reasonably demand to see that appliances furnished his servants for use in his business are reasonably safe. He is not liable for defects of which he has no notice unless the exercise of ordinary care would have resulted in notice.

2. Instructions examined and held under the facts in this case to be erroneous and prejudicial to the defendant.

13387. Gordon against Omaha. Error from Douglas. Affirmed. Glanville, C. Division No. 2.

1. A public officer who has by mandamus compelled the payment of the principal of his salary, can not afterwards maintain an action at law against the municipality out of whose funds such salary is payable to recover interest thereon.

2. Damages are not recoverable against a metropolitan city of Nebraska because of delay or neglect of its mayor and council in the performance of ministerial duty.

13346. McCormick against State. Error from Otoe. Affirmed. Barnes, J.

1. Where a prisoner has been found guilty on a criminal charge and the only error that appears on the record is the failure of the court to pronounce a legal judgment against him, it is the proper practice, and this court has the power, after setting aside the void or erroneous judgment, to remand the case and the accused, if sentence has not been suspended, to the district court with instructions to render judgment on the verdict in the manner provided by law.

2. Confinement in the penitentiary under a void or erroneous sentence, because of the failure of the accused to obtain a suspension of his sentence during the pendency of his proceedings in error, is in no sense a part execution of a legal sentence; and by the rendition and execution of a legal judgment the accused is not twice punished for the same offense.

3. An ineffectual attempt of the district court to render a judgment on a verdict according to the provisions of the law, does not deprive that court of the power to pronounce a valid judgment against the accused.

13426. Isaacs against Isaacs. Error from Wayne. Affirmed. Fawcett, C. Division No. 2.

1. While antenuptial agreements may essentially alter the interests which either the husband or wife takes in the property of the other, they cannot vary the terms of the conjugal relation itself; they cannot add to or take away the personal rights and duties of husband and wife.

2. An antenuptial agreement by a man about to be married that, after marriage, he will reside in a particular state cannot be enforced.

3. The general rule is that the domicile of the husband is the domicile of the wife.

4. The wife is bound to follow her husband when he changes residence, if such change is made in good faith.

5. When a wife, without just cause, refuses to live with her husband, he is not required to contribute to her support.

6. When a wife, without cause, refuses to live with her husband, and the evidence shows that she did not assist in or contribute to the accumulation of any of his property, but that it was all accumulated by him prior to their marriage, the husband, on obtaining a divorce on the ground of desertion, will not be required to pay alimony.

7. Evidence examined and held to fully sustain the findings and judgment of the trial court.

13478. State against Chicago, Burlington & Quincy Railway Company. Original Judgment. Letton, C. Division No. 3.

1. It is the duty of a railroad company to furnish the necessary cars to transport the goods which are offered to it for carriage, but when the carrier has furnished itself with appliances necessary to transport an amount of freight which may in the usual course of events be reasonably expected to be offered to it for carriage, taking into consideration the fact that at certain seasons more cars are needed, it has fulfilled its duty in that regard, and it will not be required to provide for such a rush of grain or other goods for transportation as may only occur in any given locality temporarily or at long intervals of time.

2. It is the duty of a railroad corporation, both under the common law, and by statute in this state, to supply cars to all persons or associations handling or shipping grain without favoritism or discrimination in any respect whatever.

3. During a temporary scarcity of cars a railroad company is entitled to consider in apportioning cars among grain dealers their relative volume of business and facilities for the loading of cars. Though there may be a difference in the number of cars furnished different grain dealers at the same railroad station, still if no favoritism or discrimination is shown and the number of cars furnished each is in a fair proportion to his volume of business, facilities for loading and grain in sight, no shipper has a right to complain of this difference though he may not obtain all the cars he deems necessary for his business.

13215. Fettis against Green River Asphalt Company. Error from Lancaster. Reversed. Hastings, C. Division No. 1.

1. Where plaintiff's claim is for services under an alleged contract of a certain date, and the evidence tends to show an offer to engage services at a fixed price at that time on defendant's part, and immediately afterward a beginning of such services on plaintiff's part, with defendant's knowledge and with no retraction of the proposition, it is error to instruct the jury in substance that there can be no recovery unless an express agreement on both sides was reached at the time alleged.

2. Section 339 of the Code only requires that the entire conversation on "the same subject" may be inquired into, or one necessary to make the other fully understood. If the conversation relates to different subjects, introducing one of them in proof does not entitle the other party to inquire as to the entire conversation on other subjects, except so far as is necessary to make the part already in fully understood.

13518. Western Mattress Company against Ostergaard. Error from Lancaster. Reversed. Duffie, C. Division No. 3.

1. If a servant's injury is the direct result of his own disobedience of orders given by one in charge of the work in which he is engaged he is guilty of contributory negligence and is not entitled to recover therefor.

2. When there is evidence tending to show that an employe disobeyed the orders of his superior and that obedience to the order would have avoided the injury of which he complains, the question of whether the orders were given should be submitted to the jury.

13430. DuBois against Martin. Error from Lancaster. Affirmed. Kirkpatrick, C. Division No. 2.

1. A mortgagee obtained a decree of foreclosure in the year 1877, the proceeds of the sale being distributed among various lien holders, according to their priority, leaving a balance insufficient to satisfy the lien of the mortgage. The question of the dower interest of the mortgagor's wife was presented in the foreclosure suit, but there was no adjudication thereof in the decree. She was made a party and served with summons, but made no appearance in the suit. In 1901 the mortgagee filed a supplemental cross petition in the foreclosure suit, serving summons upon the mortgagor's wife and asking that she be decreed to pay him the balance due on his mortgage, or be barred of her dower right. Held, that the attempted proceedings were barred by the statute of limitations.

The following opinions will not be officially reported:

13250. Wisnieski against Vanek. Error from Dodge. Reversed. Duffie, C. Division No. 3. Unreported.

1. A plea of guilty entered by the defendant in a criminal action may be used against him as an admission that he committed the acts charged against him in any subsequent action to which he is a party and which involves the same subject matter.

2. Under our statute the vendor of intoxicating liquors is liable for all expenses incurred in all criminal and civil prosecutions growing out of and just attributable to his traffic in such liquors.

3. Petition examined and held to state a cause of action.

13542. The C. F. Blanke Tea & Coffee Co. against Graham. Error from Lancaster. Affirmed. Duffie, C. Division No. 3. Unreported.

1. Evidence examined and held sufficient to support a finding that one Johnston was the agent of plaintiff in error.

12982. Heageney against J. I. Case Threshing Machine Co. Error from York. Former judgment adhered to. Ames, C. Division No. 1. Unreported.

1. Informality in a verdict rendered in obedience to a peremptory instruction is not prejudicial if the judgment is such as would properly have been rendered if the error had not been committed.

2. In an action in replevin by a mortgagee, the production at the trial, from the possession of the plaintiff, of the notes evidencing the debt as payable to him, is prima facie evidence that they have not been paid.

13501. Goldie against Stewart. Error from Douglas. Petition dismissed. Fawcett, C., Division No. 2. Unreported.

1. The rule is settled in this state that an order of the district court quashing service by publication or the service of a summons can not be reviewed by this court before final judgment is rendered in the action.

13512. Humphrey Hardware Co. against Herrick. Error from Lancaster. Reversed. Hastings, C. Division No. 1. Unreported.

1. Taking the verdict of a jury as to questions of fact in case where equitable defenses are interposed is not error.

2. The lessee in possession of premises under an oral agreement for five years at an annual rental, which has been paid for one year, is a tenant from year to year, and until such tenancy is terminated, is not liable to the owner for anything more than the contract calls for.

3. Evidence held sufficient to sustain a finding of the existence of an oral contract of leasing for a term of years.

13524. Board of County Commissioners, Dawes county, against Furay. Error from Douglas. Affirmed. Hastings, C. Division No. 1. Unreported.

1. No authority of statute is found for instituting administration proceeding upon the estate of a dead non-resident of the state merely in order to enforce a claim for taxes levied against a partnership in which the deceased was a member in a county other than the one where the administration proceedings were begun.

2. "Taxes are not debts in the ordinary acceptance of the term, and generally an action at law will not lie for their collection. While the right to an action may be implied from a failure of the legislature to provide any means for enforcing the payment of taxes, yet where the legislature has provided a means of enforcing payment that remedy is exclusive." Richards against County Commissioners of Clay County, 40 Neb., 45.

13230. Hutzel against Draper. Error from Sheridan. Affirmed. Kirkpatrick, C., Division No. 3. Unreported.

1. In a cause tried to the court without a jury, the only error assigned being that the judgment is not supported by the evidence, the judgment will be affirmed if upon consideration of the whole record there is sufficient competent evidence to sustain it.

2 Evidence examined, and held sufficient to support the judgment.

13,531. Hutzel against Leach. Error from Sheridan. Affirmed. Albert, C. Division No. 2. Unreported.

1. Evidence examined, and held sufficient to sustain the finding of the trial court.

13,588. McCarthy against Birmingham. Error from Douglas. Affirmed. Albert, C., Division No 2. Unreported.

1. A point actually and directly in issue in a former suit, and there judicially passed upon and determined by a court of competent jurisdiction, can not be drawn in question in a subsequent action between the same parties or their privies.

13,580. McGuire against Wilson. Appeal from Dodge. Affirmed. Fawcett, C., Division No. 2. Unreported.

1. A certificate of acknowledgement of a deed or mortgage, in proper form, can be impeached only by clear, convincing and satisfactory proof that the certificate is false and fraudulent. Phillips against Bishop, 35 Neb., 487, followed.

2. Evidence examined, and held insufficient to impeach the certificate of acknowledgement of the mortgage in controversy.

13465. Royal Neighbors of America against Wallace. Error from Dodge. Affirmed. Duffie, C. Division No. 3. Unreported.

1. False statements made by the insured in his application for life insurance when the questions eliciting such statements call for matters of judgment or opinion will not avoid the policy unless it is shown that the misrepresentations were knowingly made with intent to deceive the company. Following Aetna Life Insurance Company against Rehlaender, 94 N. W. Rep., 129.

13493. Lancaster County against Lincoln Packing Company. Error from Lancaster. Affirmed. Oldham, C. Division No. 1. Unreported.

1. This court will only review such errors in the trial of a cause in the district court as have been called to its attention by motion for a new trial.

2. Petition examined and held sufficient to sustain the judgment of the lower court.

13507. Prokop against Prokop. Error from Saline. Reversed. Letton, C. Division No. 3. Unreported.

Where the original petition in an action for conversion against a bailee for sale was defective for lack of the allegation that a reasonable time had elapsed within which he might sell the property before demand for its return was made, the filing of an amended petition by which such allegation was inserted held not to be the commencement of a new action so as to permit the statue of limitations to interpose as a bar between the filing of the original petition and the amendment.

Woman Injured at Fair.

ST. LOUIS, April 29.—Miss Julia Ten Eyke McBlair of Washington, D. C., hostess of the woman's building, was badly injured at the World's fair by being run over.

Miss McBlair, who is now making her home at the woman's building, was on her way to lunch at one of the cafes, a short distance away. She was walking, and a runaway horse, attached to a runabout, was coming toward her. Miss McBlair endeavored to reach a place of safety on the board walk. The horse turned in his course, striking and throwing Miss McBlair to the walk and injuring her foot badly.

One of the fair attaches hurried to the woman's building and informed Mrs. Daniel Manning, president of the Board of Lady Managers. Miss McBlair was taken to Mrs. Manning's home.