

MAJORITY VOTE NECESSARY

Three Members of Normal Board Cannot Transact Business.

SUPREME COURT HANDS DOWN OPINION

Railroads Held Responsible for Loss of Goods in Flood Where Previous Delay in Shipment Allowed Them to Be Caught.

(From a Staff Correspondent.)

LINCOLN, April 18.—(Special.)—At the request of Superintendent Mc'Brien and Chairman Ludden of the Board of Normal Board, Attorney General Blum has made a ruling on the question whether it takes a majority of the Normal board to transact business or three members out of a majority. The attorney general ruled it required a majority vote of the board members to carry a motion or to transact business. At a recent meeting at which there were five of the seven members present, three members voted in favor of a motion and Ludden ruled it had been carried. Mc'Brien objected and he and Ludden both appealed to the legal department, which upheld Mc'Brien's contention. The attorney general said the statute specifically requires a majority of the members of the board to carry a motion, and therefore there was no doubt in the matter. He also quoted numerous court decisions to substantiate his opinion.

Better Juries Result.

County Attorney Slaughter of Omaha, who is here attending supreme court, getting some satisfaction out of the Pat Crowe verdict.

"The result of that verdict will be better juries," said Judge Slaughter. "I have received letters from many lawyers and judges in various parts of the country, and they tell me that the verdict will be used in selecting juries and hereafter business men called for jury service will not be excused as they have been in the past with little or no excuse."

"The verdict will have a moral effect throughout the country, and, though Omaha will and has suffered from the action of the jury, it takes just such action to awaken the people. We have long needed better juries and more responsible men on juries, but it has taken a Pat Crowe verdict to bring about the change from the old professional jurymen."

The verdict astounded the whole country, because the evidence warranted a conviction. The jury paid no attention to the evidence and freed the man, but it has called attention to the average jury as nothing else could have done and it will result in the long run in a revolution in the personnel of juries.

Common Carrier Responsible.

The supreme court has decided that a common carrier is responsible for injury to goods where the goods were exposed to injury by the carrier's inexcusable detention, and the carrier cannot in a defense plead the act of God as a defense. The decision is in a case involving a shipment of goods by the Washburn Railroad company. Judgment was given by the lower court in favor of the plaintiff for \$50, the value of household goods destroyed in the great flood at Kansas City, May 13, 1902. The goods comprised household furniture shipped from Lafayette, Ind., to Lincoln, Mo., by the Washburn Railroad company. Twenty-four hours for re-billing and were delivered to the Missouri Pacific Railroad company and were held in the yards at Kansas City by the latter company, where they were practically destroyed by a flood. The general rule as stated by the court is that a common carrier is liable for their failure to deliver to the consignee against loss or injury whatever cause arising, excepting only the act of God or the public enemy.

Ruling on Road Crossings.

In the case of the Missouri Pacific Railroad company's crossing at Lincoln, the supreme court has decided that under section 110, chapter lxxviii of the compiled statutes it is the duty of a railroad company to make and keep in repair suitable crossings with approaches, notwithstanding the highway was laid out after the railroad was built. The public authorities are required to build the part of the highway within the right-of-way which they would have been required to make had the railroad not been constructed. Under the provisions of the statutes a railroad company cannot recover damages from a county for the cost of putting in cattle guards, erecting gates, building fences, planking the track and constructing the necessary approaches at a public crossing. Compensatory damages should be allowed for the land taken from the right-of-way for a public road. Where, in making the proper approaches to the railroad track it is necessary to grade through or nearly all the width of the right-of-way on either side of the track the railroad company should be allowed such sum for damages as the county would have been compelled to expend in grading the public road had the railroad never been built.

Writers Win Their Battles.

Nuckolls county has won its suit against Guthrie & Co., millers of Superior.

DO YOU KNOW

That Dr. Pierce's Favorite Prescription is the only medicine for women's weaknesses and peculiar ailments that does not contain large quantities of alcohol? It is the only medicine, especially prepared for the cure of the delicate diseases peculiar to women, the maker of which is not afraid to take his patients into his confidence, and to put upon each bottle wrapper all the ingredients entering into the medicine. Ask your druggist if this is not true.

to compel the erection and maintenance of bridges across a canal used by the company for the purpose of supplying water power at the public highways. One of the defenses was that the canal was really a creek and therefore the county was obliged to build the necessary bridges. The creek in question is a dry run and the milling company diverted water from the Republican river and used the creek as a canal. The judgment of the lower court is reversed and the cause remanded with directions to enter judgment requiring the milling company to erect and maintain a suitable bridge over its canal on the half section line road running through section 25, township 1, range 7.

Company Must Furnish Cars.

In the case of Frank E. Robey against the State of Nebraska et al, the Farmers Grain and Live Stock company, error from Buffalo county, the supreme court affirms the judgment of the lower court and holds that the Union Pacific railroad company is obliged to furnish cars to the grain and live stock company. Robey, the intervenor, denied the right of the railroad company to run cars on a side track across his lots to the elevator of the grain and live stock company, asserting that side track had been built only for the use of the Kearney Milling company, whose property he had become possessed of by foreclosure of a mortgage. The court holds that the side track in question, constructed and used by the railroad company and which connects with its main line and occupies a portion of the public streets of a city, under grant from the city, in the absence of evidence to the contrary will be presumed to be a part of the public highway system of such railroad company.

Agreement in Fire Escape Law.

Judge Slaughter county attorney of Douglas county, and W. W. Woodrough argued the constitutionality of the fire escape law in the supreme court. Woodrough appeared for the agent of the plaintiff, who was arrested upon a complaint filed by Deputy Labor Commissioner Bush, because he refused to erect a fire escape on the building. Woodrough contended the agent should not be held responsible while Slaughter cited cases to show the agent is responsible, when service cannot be got on the owner. Judge Day of the district court of Omaha held against the labor commissioner and in favor of Dayley.

Skinner Must Pay Up.

The judgment for \$2,000 against William N. Skinner, because he went into the newspaper business after having agreed not to, affirmed by the supreme court. Skinner sold the Springfield Herald to Louis A. Wilson for \$1,400 and agreed to forfeit \$2,000 as damages if he engaged in the newspaper business within the limits of Kea Paha county for the next ten years "in any way, shape or manner." Two years after that contract was made another newspaper, the Lincoln Daily News, was established in the same village and was ostensibly owned and conducted by Skinner's wife. Wilson alleged that Mr. Skinner was the real owner and managed the business. He brought suit, alleging a breach of contract and the jury awarded him \$2,000 damages.

Corporation Loses Suit.

A corporation cannot act as an administrator of the estate of a deceased person under the laws of this state. This is the judgment of the court in the case of the Continental Trust company, administrator of the estate of Francis E. Reisdorf, deceased, against the Continental Trust company, appellants. The appeal from Douglas county is dismissed. The administrator in this case was appointed by the county court of Douglas county.

Inheritance Tax Law Stands.

The supreme court has denied a rehearing on the inheritance tax law which it recently upheld. This law provides a per cent of estates shall be paid to the county treasurers where the estate is located, to be used for the betterment of roads. In Douglas county the county judge refused to appoint appraisers to pass upon estates, and appeal was taken by the county attorney to compel him to act. He was successful in the supreme court and a rehearing was asked for by some of the interested parties.

Capital City Briefs.

Governor Mickey left this morning for Okecho, where he will take a few turns around his "farm" to see that things are in shape for a big crop this year. Judge Wall of Loup City is here attending the supreme court after a trip through Alabama and Georgia on legal business. Judge Wall said in the western section of the state the largest acreage of winter wheat had been seen this year than ever before, and he predicts the biggest crop in the history of the state. Secretary of State Galusha went to Wyoming to attend the general of Dr. R. W. Ladin, who died there Monday night. Mr. Ladin was at one time a member of the finance committee of the Ancient Order of United Workmen lodge, of which committee Mr. Galusha is now a member. All of the grand lodge officers are for entrance into the lodge. Deputy Superintendent Bishop has closed the entries for the wheat and potato contest. He has not secured as many competitors as he would like, but the furnishing of seed was too much for his department, so he had to refuse any more applicants for entrance.

Land Commissioner Eaton has gone to Ord, where today he will lease school lands in Valley county. He will visit Sherman county before returning to Lincoln.

The Jamestown exposition commissioners have called a meeting in Lincoln May 1 to organize and discuss plans of procedure. At this meeting a chairman and officers of the commission will be selected and a trip will be planned to Jamestown. The commission pays its own expenses. Bidding permits issued in Lincoln during the last two weeks aggregate more than \$175,000 and it is expected that the April permits will amount to about \$250,000. Based on a population of 50,000 the death rate in Lincoln last year was 7.94 per 1,000. This is less than 1904, the death rate for that year being 8.56.

Varsity Alumni to Celebrate.

Alumni of the State university have arranged for a celebration at the state farm June 12. Will O. Jones, editor of the State Journal, will deliver the alumni day oration. J. J. Ledwith will have charge of the athletic sports and the day will be concluded with dancing. Charles A. Braselia of the Omaha High school will be toastmaster at the banquet. Miss Alice Towne of Omaha will arrange for the reception and the dance.

Medical College Graduation.

Fifteen students this evening received diplomas at the annual commencement of the Lincoln Medical college. The following students completed their course: Charles A. Lyman, H. M. Webb, John C. Baker, Marcus C. Hurd, R. Wayne Reynolds, B. S. Allison, L. M. Robinson, Charles E. Taylor, Clinton L. Ayres, E. W. Bookman, Agnes Horton Jones, Athanas L. And, Hubert A. Copeley, Earl E. Boyd and J. Marshall Kent.

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BENSON ANSWERS VOTERS

Republican Candidate for Mayor Freely and Frankly States Position.

IS NOT OPPOSED TO SUNDAY BASE BALL

Questions Put in Second and Twelfth Wards Are Met and Fully Replied to and the Answers Cheered.

At a meeting of the Second Ward Republican club last evening at Eighteenth and Broadway, Benson put answers to the questions of the voters.

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