KABLE & KABLE LOSE POINT

Demurrer of Architects to School Board's Answer Overruled by Court.

Kable & Kable, architects, must prove that the board of directors of school district No. 1 did not examine their plans and specifications for the Albina high school before they can claim the $12,500 damages which they are asking the district to pay. This is the stand taken by Judge Gantenbein when he overruled the demurrer of the defense and directed that the case be allowed to go to trial.

Some time ago the architects brought suit against district No. 1 asking for $12,500 damages. In their complaint they alleged that the board had issued a "program" calling for plans for the proposed building and stating that they would submit the plans received to a jury and would in turn accept the report of this jury. The plans were prepared according to the program and were submitted to W. M. Somervell of Seattle. Somervell in his report recommended the plans drawn and submitted by Kable & Kable. In the fact of this report the board selected plans prepared by another architect.

Kable & Kable then brought suit contending that the board by its program had agreed to accept the plans recommended by the jury. It was also contended that the board did not examine the plans submitted by Kable & Kable, or exercise discretion but acted in an arbitrary manner.

Judge Gantenbein in ruling on the demurrer held that the meaning of the word "accept" as used by the board was that the board would receive and consider the recommendations of the jury. It would go beyond its power if it agreed to absolutely abrogate its judgment. That was not the intent of the program, or offer of the board, the court held.

The court held that the transaction was in the nature of an offer by the board, accepted by the architects, that the board would receive plans, submit them to the jury and then receive and consider the report of that jury, awarding the contract after that consideration. It was the duty of the board to consider all plans, and the complaint alleged that the board had failed to consider the plans submitted by Kable & Kable.

The court therefore held that the plaintiffs should prove their contention that the board did not consider their plans. The demurrer was overruled and the case ordered to be set for trial.

RELATIVES DOUBT CORPSE'S IDENTITY

Relatives of Harry Gushaw, traveling agent of a California fisheries company, contend that the body shipped by the firm of Dunning, McEntee & Gilbaugh to them at Fortuna is not that of Gushaw. The body was shipped some days ago and was buried last Tuesday. The relatives are contemplating exhuming the body for a further examination.

Gushaw, who was well known among the traveling men of the Pacific coast, was picked up in an unconscious condition on November 26. He was taken to St. Vincent's hospital where he remained in an unconscious condition for a couple of weeks before his death. In good health Gushaw weighed close to 190 pounds. When the remains reached California they were much lighter and the appearance of the corpse was very different.

Mr. Dunning says, however, that there can be no mistake. He says that Gushaw was identified by several acquaintances while at the hospital and later before the shipment of the body. Gushaw also had in his possession when found a number of letters and telegrams which established his identity beyond a doubt. Mr. Dunning believes that long illness was responsible for the change in his appearance.

WAR VETERANS AS MINSTRELS TONIGHT

The Spanish War veterans' big minstrel show opens tonight at the Heilig theatre. Good natural joshing of local affairs and fine ensemble musical numbers will be features of the big performances.

Fred Jones, who recently lost his father, has kindly come forward to aid the boys in the entertainment. His part in the show is of such importance that the performance would be weakened by his absence, and though feeling keenly the loss of his parent, he will appear in his part as rehearsed.

The curtain will rise tonight at 8:30. Seats on sale at the Heilig theatre box office.

SPECIAL RIBBON SALE

1000 Pieces All Silk Taffeta Ribbon—for Fancy Work.

On sale at following prices. All colors: No. 7, 6c; No. 9, 8c; No. 12, 9c; No. 22, 10c; No. 40, 11c; No. 60, 12c. Black dress goods, silks, hosiery, gloves, umbrellas, table linens and blankets at lowest prices. McAllen & McDonnell, Third and Morrison.

Ladies' tan rubbers at Knight's.

ATTORNEY GENERAL BONAPARTE'S REPORT

(United Press Leased Wire.)

Washington, Dec. 18.—Attorney General Bonaparte has submitted his annual report to congress. In part he says:

To the senate and house of representatives of the United States of America in congress assembled—I have the honor to submit the following report of the business of the department of justice during the fiscal year ended June 30, 1908, as required by law:

It has been the duty of this department to continue the enforcement of the several statutes intended to protect the interstate and foreign commerce of the country from evils arising through combinations in restraint of trade and attempts to create monopolies, as well as discriminations and other illegal practices on the part of common carriers engaged in such commerce. The consistent policy of the department in this branch of its work has been carefully to investigate all complaints submitted to it, whether by public authorities or by responsible private citizens, and to authorize proceedings, whether civil or criminal, only when this investigation shall have shown the complaints to be serious and well founded, and that success in such proceedings might be reasonably expected.

Policy Observed.

This policy was observed during the past year, as it had been previously, and was attended by a fair measure of success in the proceedings authorized. As a consequence of successive decisions already obtained or expected in the near future in causes of this character which have been finally passed upon by the supreme court, the statutes above referred to will soon have been so authoritatively interpreted as to remove doubts previously existing or alleged to exist, as to the meaning of important provisions, and individuals or corporations seeking in good faith to comply with the law thus relieved from the hardship of uncertainty as to what the law really is.

It is of great moment to the community that the law should be clear and readily understood, and this is particularly true with respect to statutes which affect the commercial relations of the whole people.

Appeals in Criminal Cases.

It is obviously in the public interest that whenever a conviction shall have been reversed on appeal by the defendant to a circuit court of appeals there should be a right of appeal by the government to the supreme court of the United States from such judgment of reversal. I advise, therefore, that the very useful but insufficient statute allowing an appeal to the government in criminal cases be amended in this respect. Under the existing law, when a demurrer is sustained because of the invalidity or construction of the statute upon which the indictment is founded, the case may be taken direct to the supreme court of the United States. But, should the demurrer be overruled, a conviction had, and the case reversed and remanded for a new trial by the circuit court of appeals, on the ground that the demurrer should have been sustained by the trial court, such case cannot be taken to the supreme court. This inconvenience should be remedied by an amendment of the act.

Taking of Testimony.

I renew the recommendation of my last annual report that a statute be passed authorizing any court of the United States engaged in the trial of a suit in equity arising under these statutes to appoint simultaneously as many commissioners to take testimony in different judicial districts as the judge or judges of the court in question may deem appropriate to the ends of justice. It is no hardship that defendants, who are almost invariably rich corporations employing many counsel, should be obliged to take evidence in different places at the same time instead of successively, and such a provision of law will tend, in a marked degree, to promote the expeditious determination of these protracted litigations.

I further advise, as in my last report, that in civil cases under such statutes the process of the court to secure the attendance of witnesses and the production of documents shall have the scope which it now has in criminal cases, and may be served, as in the last mentioned cases, by the marshals of all judicial districts of the United States.

Sherman Anti-Trust Law.

A considerable number of communications have been sent to the president or to the department of justice asking that action be taken in the name of the United States to procure temporary injunctions against the collection of increased rates on freight by various railroads, and claiming that such increased rates, although duly filed with the Interstate Commerce commission by each of the railroads promulgating them, had been adopted in fact through agreements between competing railroads in violation of the terms of the statute generally known as the "Sherman anti-trust law" as construed by the supreme court in the case of the United States vs. Trans-Missouri Freight association (166 U. S., 290). In a majority of these cases applications had already been made to the Interstate Commerce commission to secure the abatement of the rates in question, alleging them to be unreasonable and excessive, and the principal purpose for the requested intervention of this department was to keep the old rates in force pending the decision of the Interstate Commerce commission. After a very careful consideration of the question I felt compelled to advise the president that, under all the circumstances of the case, I deemed it inappropriate and against sound public policy to institute proceedings looking to the procurement of temporary injunctions for the purpose above indicated.

Land Fraud Prosecutions.

Two other classes of cases have engaged a large part of the attention of the department, namely, prosecutions for peonage and civil and criminal proceedings arising out of alleged frauds and irregularities in the acquisition of title by private parties to the public lands. In both cases I am happy to report that the energetic prosecution of offenders has undoubtedly rendered the crimes less frequent, and also less profitable. It is notoriously difficult to secure convictions in the peonage cases, owing to the antecedents and surroundings of the victims and witnesses and the frequent existence of strong local sympathy for the defendants. Nevertheless there is good reason to believe that the proved determination of this department not to be discouraged by occasional failures in the enforcement of these salutory laws, and the severe condemnation of the practices exposed through such trials by the enlightened public opinion of the country at large, has materially diminished the frequency of the offenses in question, although they are still by no means unknown. The land fraud cases have forcibly illustrated the unfortunate consequences of administrative laxity and toleration of abuses in the enforcement of any laws during a considerable length of time.

Special Agent Force.

In my last annual report I called attention to the fact that this department was obliged to call upon the treasury department of detective service and had, in fact, no permanent executive force directly under its orders. Through the prohibition of its further use of the secret service force, contained in the sundry civil appropriation act, approved May 27, 1908, it becoame necessary for the department to organize a small force of special agents of its own.

Salaries of Judges.

In my last annual report I suggested the advisability of the readjustment of salaries of federal judges rendered appropriate by undoubted and very great increase in the expenses of living throughout the union since their salaries were last adjusted. On this subject I said further:

"At present a judge ought to have, and, indeed, can have, very little opportunity to earn money in addition to his salary, and he is often obliged to spend more than he otherwise might by reason of the dignity of his office and a due regard to the demands of public and professional opinion. It seems clear that, in one respect at least, a more liberal provision should be made for same of our federal judges. Many of them are obliged to hold court in several localities within their respective districts, and as a judge can ordinarily be at home in only one of these localities, it seems to be equitable that he should have the same allowances for expenses when holding court elsewhere in pursuance of law which he now has when required to hold court beyond the limits of his district."

I venture to recall this subject to the attention of the congress. The character of our judiciary is the safeguard of our order, prosperity and freedom, and it is no less futile for the government than it would be for an individual to expect the services of men of ability, learning, industry and virtue unless it pays them what such men can readily earn.

BENBOW CHARGES A FRAUD ON CREDITORS

Allegations of fraud to cheat the creditors are made in a suit for $37,350 begun in the circuit court against the Golden Eagle Dry Goods company, Gus A. Lowit and Charles Wright by W. C. Benbow, suing on assigned claims of the creditors. One of the largest creditors he represents is the Oregon Trust & Savings bank.

On account Benbow asks for $17,750 alleging that the Londons' Clothing company was insolvent when it was merged into the Golden Eagle in 1906. He charges that the transfer of stock from Wright to the Golden Eagle in January, 1908, was void, and that the sum he received from the company in return for his stock should be turned back for the creditors.

It is further alleged that Wright paid only $5400 on his 250 shares of stock and left $19,600 unpaid. This forms the second count in the complaint.

Handkerchief Sale.

Thousands of holiday handkerchiefs. Samples secured for less than 60c on the $1. Prices range from 1c up to $16 each. Men's initial at 5c, 10c, 15c, 20c and 25c. Handkerchiefs at 5c the equal of those you pay 15c or 20c for elsewhere. Handkerchiefs at 15c and 25c are handsome. Come and see. McAllen & McDonnell, same old corner, Third and Morrison.

The Best Is Good

The best of anything is good, and Sexine Pills are the best of any tonic we have found. They are guaranteed for any form of nerve weakness, for men or women. Price, $1.00 a box, 6 boxes $5. Address or call: The J. A. Clemenson Drug company, corner Second and Yamhill streets, Portland, Or. This is the store where you get all the great remedies.

Tomorrow and Monday last days for discount on east side gas bills. Don't overlook gas appliance sale.

A. B. Steinbach & Co.

In the Estimation of the Masses

The ideal Christmas gift is the practical gift. Especially does this apply to the selection of presents for the masculine contingent.

Steinbach's Is a Man's Store

The biggest, busiest and best establishment of its kind in Portland. At present it's great.

Men's Furnishings Department

Is brimful of suitable gifts for men, and the Christmas shopper who chooses here may feel certain of giving, not only wisely, but well.

Sensible Christmas Gifts for Men and Boys

Gloves, Handkerchiefs, Mufflers, Suspenders, Neckwear, Hosiery, Pajamas, Night Robes, Underwear, Umbrellas, White Shirts, Fancy Shirts, etc.

WE ARE EXCLUSIVE PORTLAND AGENTS FOR HOLEPROOF HOSIERY FOR MEN, WOMEN, CHILDREN—MEN'S HOLEPROOF SOX ARE NOW $1.50 BOX OF SIX PAIRS.

We will fill mail orders promptly and carefully.

BEGINNING SATURDAY, DEC. 19, STORE WILL BE OPEN EVENINGS TILL CHRISTMAS.

For the Newest in Wearing Apparel, Visit the "Style Store"

XMAS BARGAINS

AT THE SANTA CLAUS STORE

Every section of the "Style Store" shows that Santa Claus has taken possession with his loads of exquisite gifts, and made the prices less than ever before.

FOR THE MEN-FOLK—he has Smoking-sets, Smoking-jackets, Shaving-sets, Rings, Neckwear, Umbrellas, Military Sets, Fobs, Watches, Mufflers Gloves, etc., etc.

FOR THE WOMEN-FOLK—he has Rings, Bracelets, Watches, Pins, Toilet-sets, Cut Glass, Silverware, Furs, Umbrellas, Silk, Lace and Wool Waists, Petticoats, Fancy Combs, Vases, etc., etc.

FOR THE LITTLE-FOLK—dainty Rings, Bracelets, Watches, Fur Sets, Coats, Dresses, Boys' Suits, Neckwear, etc., etc.

A few of the especially priced Christmas articles are as follows:

$6.00 Taffeta Waists for $3.50

These make a pretty, yet most serviceable gift; they are of excellent grade of taffeta, strictly tailored; ask to see them; special.....$3.50

$6.00 Fur Scarf $2.35

Will make a beautiful gift for either a lady or school girl; it is of imitation ermine, satin lined, a full yard long; just a limited number at this price; see us tomorrow, special.....$2.35

Men's Military Sets $2.35

Regular $4 Military Sets, fine French bristle brushes, silver mounted; extraordinary values; special.....$2.35

Ladies' Comb and Brush Sets 95c

Real rosewood sets, have been selling for $1.50, we will close out this week for.....95c

Artistic Gold Mantle Clocks $2.25

Regular $3.75 Ormolu, 24-karat gold-plated Clocks, Waterbury movement, guaranteed good timekeepers; special.....$2.25

Cut Glass and Hand Painted China 20 Per Cent off

All the newest, most attractive patterns to choose from; Nappies, Vases, Plates, etc.

Ladies' and men's Umbrellas from.....$1.00 Up

CREDIT IF DESIRED:—You are cordially invited to open an account with us for any thing you may select, and pay after the holidays, as convenient.

Corner Washington and Tenth Streets

EASTERN OUTFITTING CO.

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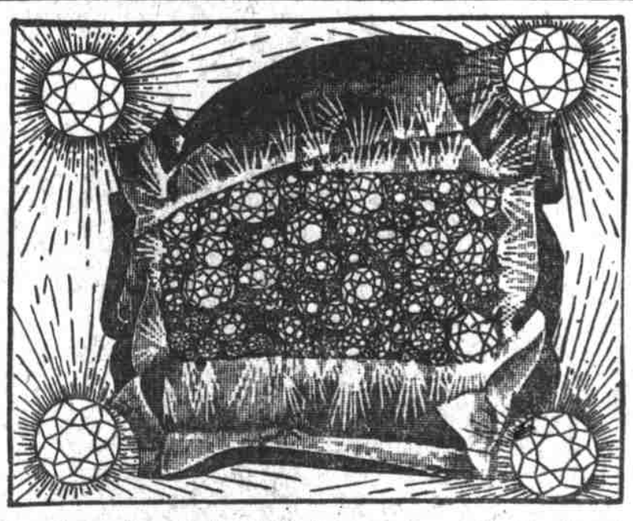

THE DIAMOND STORE OF THE NORTHWEST

Our diamond reputation being known all over the Northwest, is built up on conservative lines. It deals with facts only, so that you can buy a gem on a safe basis and have the benefit of our vast experience as well. We buy diamonds right and under the most favorable conditions direct from the cutters. We sell them right also, and will guarantee to save you money on your investment, quality considered, so that your trading with us will be a lasting recommendation to your friends and a valued testimony to us.

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ON TALKING MACHINES AND RECORDS

A vast assortment of strictly brand-new Disc Records for all makes of talking machines, retailed regularly at 60c the world over, are now on sale at nearly half, or 33c each. Not more than six records to each customer. All that is best in band and operatic selections, vocal and instrumental numbers, etc., are included in this unprecedented offer. Here's a fine chance to get a splendid assortment of new records at little expense. Come the first thing.

To call particular attention to our splendid Talking Machine department, acknowledged the finest and most modernly equipped in the west, we are offering a limited number of high-grade Talking Machines at drastic reductions. All are strictly brand new, very latest styles, tapering arm, etc.

The regular $25.00 Talking Machines and 6 Records only.....$17.85
The regular $40.00 Talking Machines and 6 Records only.....$24.90
The regular $85.00 Talking Machines and 6 Records only.....$49.25

All fully guaranteed. No machine will be sold to dealers at these prices, and only one to each customer. This is positive. Pay cash or easy payments. We reserve the right to withdraw this offer just as soon as a certain number of machines are sold. Arrange to come right away.

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The Largest and Finest Music Emporium in the West.