RECENT CASES.

CONSPIRACY—OBVIOUS FRAUD—PEOPLE v. GILMAN, 80 N. W. 4 (Mich.).—In a prosecution for conspiracy to defraud the public by pretending to be a spiritualistic medium and give séances it was *held* to be immaterial that the evidence was obtained by a detective who paid his fee without being deceived by the imposture. The conspiracy was complete when formed.

In this case the court does not decide that all persons who claim to be mediums are impostors and liable to prosecution, for the facts proved of themselves that the defendant was not a bona fide spiritualist. It is hard to see on what grounds a court could pronounce spiritualism a humbug, provided the parties concerned actually believed in it. No court ought to dictate what a man shall hold as a religion or ethical tenet, nor should it pronounce any honest belief in these matters unworthy of a man of ordinary intelligence.

CONTRACTS—REFORMATION—EQUITY JURISDICTION—RAILWAY ADVERTISING CO. v. STANDARD ROCK CANDY CO., 60 N. Y. Sup. 228 (Supreme Court, Appellate Term).—Plaintiff sued in a municipal court on a contract providing that defendant should pay plaintiff $112.20 per month for placing defendants' advertising placards in the street cars of certain cities. It appeared that both parties agreed that the sum paid for such advertising should be the same as that paid under a former contract in another city, $102 per month, and that the larger sum appeared in the latter contract by mistake. The court instructed the jury that, if they found from the evidence that it was the understanding that defendant was to spend as much under the latter contract as under the earlier, they should find a verdict for plaintiff in the sum of $102 and interest. *Held*, "that the instruction did not assume the exercise of equity power, and virtually allow a reformation of the contract sued on and a recovery after reformation, and was not erroneous, when the parties had litigated the question as to what the contract was, without objection." MacLean, J., dissented from this opinion.

The charge to the jury and their subsequent finding would seem to be in error, because the defendant, by its answer set up no other contract than the one declared on in the complaint, for $112.20, nor did any other appear in the pleadings. The charge and finding seem to be a virtual assumption of equity powers, apparently recognizing the plaintiff's right of recovery upon the contract sued upon, but really reforming that contract because of a mutual mistake therein, and then allowing recovery on the reformed contract. This was extra jurisdiction. *Fenee* v. *Ellsworth*, (Com. Pl.) 19 N. Y. Sup. 659. Reformation is a purely equitable remedy, and it is hard to see how it can be granted in a case where a plaintiff does not ask for it, but sues in his common law rights under a contract, even if it be in a Code State.

"Even if it be not, in effect, reformation," says MacLean, J., "then it must be conceded to be a recovery upon a cause of action not pleaded, and we may say as was said in *Reed* v. *McConnell*, 133 N. Y. 433, 31 N. E. 22. 'This recovery was in violation of the rule that no judgment can be sustained in favor of a plaintiff on a cause of action not alleged in the complaint unless the defendant, by his silence or conduct, acquiesced in the trial of the new and different cause of action.'"

The majority of the court base their affirmance of the judgment, *first*, "upon the liberality, almost informality of practice sanctioned in the municipal court; *second*, upon the provisions of Section 3063 of the Code of Civil Procedure, and *third*, upon the fact that the parties had, without objection,

litigated the question as to what the contract was." Code Civ. Proc., § 3063, provides that the Appellate Court must render justice according to the justice of the case, and without regard to technical defects, which do not affect the merits, and that it may reverse or affirm a judgment for errors of law or fact. It is hard to see what application this has to the case under discussion, since there would be no injustice in compelling recourse to the remedy of reformation before bringing suit, and since it can hardly be regarded as a technical defect for suit to be brought on one cause of action and recovery had under another. The cogency of the third reason, namely, that the parties had been allowed to litigate what the contract really was, is not apparent. All the testimony on this point could only serve to show that there had been a mutual mistake as to the contract, that the real contract was something different from that which appeared in the written instrument, and that there was need of the equitable remedy of reformation.

EASEMENTS—RIGHTS OF MORTGAGEE—COMPENSATION—FERNIE V. CHICAGO, R. I. & P. Ry. Co., 58 Pac. 492 (Kansas).—A mortgagor of land granted the right of way to a railroad company without the consent of the mortgagee, and without any proceeding to condemn the land. *Held*, that a purchaser at a foreclosure sale under the mortgage or his grantee may sue the company for compensation, but cannot recover damages incident to the entry before he acquired title to the land.

This case seems to be correct on principle. *Perkins* v. *Pitts*, 11 Mass. 125, *Meriam* v. *Brown*, 128 Mass., 391, is an almost parallel case, holding as in the present case that the rails were real fixtures and became a part of the land. Although this is, without doubt, good law, there are decisions to the contrary. *Black River & Morristown Ry. Co.* v. *Barnard*, 16 N. Y. 104; *Cohen* v. *St. L., Ft. S. & W. Ry. Co.*, 34 Kan. 158.

EVIDENCE—REQUIRING PRODUCTION OF DOCUMENTS—IN RE COMINGORE, COLLECTOR, 96 FED. 552.—The reports made by a distiller, or by a storekeeper or other officers to a collector under the internal revenue laws are in no sense public records, and cannot be produced in court as evidence.

The question here hinges on the public nature of the storekeeper's report. If they are made "for the benefit of the public" (I Greenl., Sec. 483), it would seem that the State officials' call for them as evidence should be respected. If they are the private property of the government, the Secretary of the Treasury has undoubtedly the right to order them refused as evidence. Their purpose is to give the collector information as to the quantity of distilled spirits in the warehouse, and they are not open to the public. But cases can be imagined where the public would be benefited by knowing such reports. There is nothing in them which the distiller has a right to demand should be secret, nor anything which can injure the public welfare or interest. And it has been held *In re Hirsch*, 74 Fed. 928, that a collector must give as evidence the application of a person for a license. The weight of authority, however, seems to be with the court in the present case. *In re Huttman*, 70 Fed. 699; *In re Weeks*, 82 Fed. 729.

EVIDENCE—WILLS—MENTAL CAPACITY—POWERS EX'R. ET AL. V. POWERS ET AL., 52 S. W. 845 (Ky.).—Evidence was offered as to the amount of property the testator had at a considerable time before his death and that he had a much less amount at his death. *Held*, that perhaps such evidence was admissible as showing the testator had not the mental capacity to make a will.

There seems to have been some doubt in the mind of the court as to the admissibility of this evidence and it is improbable that the decision will be anywhere followed. Such evidence is extremely remote from the issue and, by itself, of almost no effect, since the law has long been established that bad management or waste of an estate or want of understanding to transact even the ordinary business of life does not affect testamentary capacity. *Whitney* v. *Twombly*, 136 Mass. 145; *Hall* v. *Hall*, 17 Pick. (Mass.) 373.

FRATERNAL COLLEGE SOCIETIES—EXPULSION OF SUBORDINATE CHAPTERS—INJUNCTION—HEATON ET AL. V. HULL ET AL., 59 N. Y. Sup. 281.—Charges were brought against a chapter of a college fraternal organization by its president because of lack of culture and refinement among the women of the college. No proof was offered that any rule of the order was broken except the exhibition of the constitution to counsel by a member of the order. No causes for expulsion are provided for by the constitution. Nor was any chance given the chapter to defend itself against the charges. *Held*, the court would enjoin consummation of the expulsion.

In the absence of defined regulations as to the causes for expulsion, it would seem that the ordinary principles of justice would govern. In *People* v. *N. Y. Produce Exchange*, 149 N. Y. 401, it was held that the causes of suspension and expulsion must be stated with reasonable certainty in the notice and the cause for action must be within the scope of the by-laws. But this case refers mainly to membership in corporations, but no distinction is recognized between corporations and voluntary unincorporated associations. The chief value of membership and association with members of other chapters of fraternal organizations lies in the initiation by a chapter of good standing, and the continuance of privileges as members of the local chapter. When that value has been destroyed, the blow comes home directly to all those who have become members of the local chapter, and so their individual rights would apparently be invaded.

GAS COMPANIES—DISCRIMINATION—BAILEY V. FAYETTE GAS-FUEL CO., 44 Atlan. 251 (Penn.).—*Held*, that a company incorporated for the purpose of supplying gas both for heating and lighting cannot discriminate by charging more for gas for lighting than for heating.

Unlawful discrimination is a term generally used to indicate a breach of a statutory or common-law duty to treat all customers alike, i. e., there must be no discrimination if there is an equality of conditions with respect to all customers affected. The American doctrine of legislative control over the rates of warehousemen is well settled in the case of *Munn* v. *Illinois*, 94 U. S., 113, and has of late years been applied to the regulation of the rates of gas companies, but with recognition of the fact that such control is not arbitrary and is always subject to judicial determination. The justification of such legislative control is the quasi-public nature of warehousemen, railroad, gas, ferry and bridge companies. In the case in question the conditions under which the customers were supplied were both similar and equal, and the only ground for discrimination was the differing value of the service to the customer, i. e., that the furnishing of gas for lighting was more valuable to the customer than the furnishing of gas for heating. Discrimination based on such grounds has never been sustained in cases of companies of another nature, and now for the first time it is decided that gas companies cannot charge varying rates for differing uses of the same kind of gas. Many gas companies in the different States have made such a distinction in charges, and if the courts of other States hold in accordance with the principal case these companies will be most markedly affected. The decision seems based on a logical interpretation of the doctrine of unfair rates and will in all probability be sustained by future cases.

HIGHWAYS—REASONABLE USE BY OWNER OF THE LAND—NUISANCE—LYMAN V. HOOPER, 44 Atl. 127 (Me.).

While it is true that adjacent owner, owning presumptively to the center of a highway, may, subject to the public easement, make a reasonable use of the land even within the location, yet a stack of hay with a white half cap, the corners of which are unfastened and flapping in the wind, placed within the highway about three feet from traveled part, is an object of such a character as will naturally frighten horses ordinarily gentle and well broken, and therefore is not a reasonable use, but constitutes a nuisance. Most of the cases of injury incurred on highways are against the municipalities for maintaining a nuisance or permitting an abutting owner to do so. In *Murray* v. *McShane*, 52 Md. 217, the same rule of law was applied; the owner of land on which was

a ruinous wall, which was declared a nuisance, being held liable. *Regina* v. *Watts*, 1 Salk. 357, and *Mullen* v. *St. John*, 57 N. Y. 567, is decided on same ground.

LEASE—WHAT CONSTITUTES—GOLDMAN v. NEW YORK ADVERTISING CO., 60 N. Y. Sup. 275.—The relation of landlord and tenant is not created where for compensation one person gives another authority to use the wall of a house for advertising purposes for a specified time.

Both appellant and defendant invoke legal principles that obtain between landlord and tenant. The relation of landlord and tenant did not exist, as the contract between the parties was not one for the possession and profits of lands or tenements neither was it for the possession or right of possession to the realty. In *Lowell* v. *Strahan*, 145 Mass. 1, it was held that affixing a sign to the wall in consideration of an annual payment was a license, and not a lease. It was permission to do a particular act, and gave no authority to do any other act upon the premises.

MASTER AND SERVANT—GROUNDS FOR DISCHARGE—EMPLOYERS' GOOD FAITH—MISCONDUCT—CONTRACT OF EMPLOYMENT—EMPLOYEE'S RIGHTS—ALLEN V. AYLESWORTH ET AL., 44 Atlan. 178 (N. J.).—An employee whose faithful service was sought by execution of a bond in his favor for an additional remuneration in event of such faithful service, was discharged for endeavoring to make secret examination of the employers' books. *Held*, that this was a breach of contract on part of employee, and employers were entitled to discharge him.

The court thoroughly exploits the right of a master to discharge an employee on grounds all of which are not assigned at time of discharge. This matter is well settled, for a master is never under obligation to assign any reason for dismissal of a servant, provided he can show that good and sufficient oause for dismissal existed at the time of discharge; *Sterling Emory Wheel Co.* v. *Magee*, 40 Ill. App. 340, and further reasons for discharge may be assigned even though *unknown* to master at the time the discharge was made. *Odeneal* v. *Heung*, 70 Miss. 172. This is now the general American doctrine. In the present case, the original cause for dismissal was the unauthorized and clandestine examination of the master's books, and this is held to be adequate cause for discharge as a breach of an implied condition of employment. There are cases in which the betrayal of the employers' secrets of trade was good ground for discharge, but the present case seems without precedent, as there was simply an endeavor to acquire the trade secrets of the employers. The court seems to apply the general rule correctly, as such an act would be a breach of a contract for good and faithful service. Further, it is held that the anticipation by the master of disobedience to orders by the servant does not constitute bad faith on the part of master in discharging such employee for the unauthorized examination of books. *Smith, Master and Servant*, p. 150, 151.

MUNICIPAL CORPORATIONS—ACTION FOR PERSONAL INJURIES—LIABILITY FOR ACTS OF STREET CLEANING DEPARTMENT—MISSONS ET AL. V. MAYOR, ETC., OF THE CITY OF NEW YORK, 54 N. E. 744 (N. Y.).—The negligence of the driver of an ash cart, employed in the street cleaning department, caused the death of plaintiff's intestate. *Held*, that the city was liable, as it was acting in its private capacity as distinguished from its governmental functions.

Judges O'Brien and Gray dissent and follow the doctrine of *Maxmilian* v. *Mayor, etc.*, 62 N. Y. 160, and *Ham* v. *Mayor, etc.*, 70 N. Y. 459. These two cases have been authoritative until reversed by the present case. While it is well settled that the city cannot be held liable while exercising its governmental functions, there is a conflict as to when the city is so acting. In *Jewett* v. *City of New Haven*, 38 Conn. 368, it was held that the fire department, established and organized under the provisions of the city charter, while engaged in extinguishing fires, was performing a public, governmental act, and that the city could not be held liable for injuries received through the negligence

or misconduct of such department. In *Hill* v. *City of Boston*, 122 Mass. 344, it was held that a child attending a public school in a schoolhouse provided by a city pursuant to a duty imposed upon it by the general laws, could not maintain action against the city for an injury caused by reason of the unsafe condition of a staircase over which he was passing. In *Barnes* v. *District of Columbia*, 91 U. S. 540, it was held that a city was responsible for an injury caused owing to the defective condition of a street.

NEGLIGENCE—CONTRIBUTORY NEGLIGENCE—QUIRK v. SIEGEL-COOPER CO., 60 N. Y. Sup. 228 (Supreme Court, Appellate Division, Second Department).—*Held*, "The placing of a slippery slide in the middle of a section of stairway over which customers were invited to ascend and descend, in such a way as not to be likely to attract the attention of shoppers familiar with the stairway, and without any means being adopted to warn such customers, is negligence. Evidence that plaintiff, who was injured by slipping on the slide, had passed down such stairway the day before, when no slide was there, and that there was nothing to suggest danger unless she had looked directly where she intended to place her foot, and the light was somewhat obscured, is sufficient to sustain a finding that she was not guilty of contributory negligence."

The general rule of a storekeeper towards customers invited into his store to trade is to exercise reasonable care to keep the building safe for the use of such customers, and under it the placing of a *permanent* slide over such a flight of steps would not appear to be such lack of care as to amount to negligence, since the slide would be visible to one ordinarily watchful of his movements, and since, per statement of facts, there was abundant room to descend the steps without going upon the slide. Nor would the temporary occupation of a portion of the steps by a slide for trucks be wrongful *in itself*. The ground of the court in holding the defendant guilty of negligence lay in the fact that the obstruction was temporary, "and so nearly on a level with the steps as not to be likely to attract the attention of shoppers familiar with the stairs, but having no previous experience of any such obstruction upon them. The defendant should have adopted some method of warning customers of the presence of the obstacle."

In regard to the question of contributory negligence on the part of plaintiff, the fact that the slide was temporary and had not been there when plaintiff passed the same stairs the day before, was conclusive in determining that plaintiff was not negligent. Ordinarily a person who exercises ordinary care is bound to look where he sets his foot, but in a case such as this, where the surroundings are familiar and there *is nothing to lead the passer to suppose that the premises have been altered*, ordinary care would not demand an inspection of the locality. "Contributory negligence is not always the consequence of failure to exercise the greatest prudence or to make use of the best judgment." *McRichards* v. *Flint*, 114 N. Y. 222, 21 N. E. 153. Because of the low level of the slide and the obscured light there was no indication of danger unless the plaintiff looked directly where she intended to step, and from this close inspection she was excused because she was familiar with the steps and they had not been obstructed when she last used them.

PATENTS—VALIDITY—INVENTIONS IN FOREIGN COUNTRY—HANIFEN v. PRICE, 96 Fed. 435.—One who has made an invention in a foreign country, and has introduced the article into commercial use there before the granting of any foreign patent or the description of the invention in any publication, may, upon obtaining a patent in this country, carry back the date of his invention to the actual time of making such invention in a foreign country so as to overcome the defense of prior use in this country.

This is a new point, and although this decision of the circuit court upholds the view previously taken on the same subject in *Hanifen* v. *E. H. Godshalk Co.*, 78 Fed. 811. we may expect to find still further adjudication on it. It seems to be decided on the principle in *Seymour* v. *Osborne*, 11 Wall. 516,

555, that an invention patented here is not to be defeated by a prior foreign patent, provided nothing has been done which enables one in this country to practice the invention without making experiments. The granting of a patent here is independent of what may have been done abroad, if the article is not in general use by the American public.

RAILROADS—WATCHMAN AT CROSSING—ACCIDENT TO DEAF PERSON—PISKOROWSKI v. DETROIT, G. H. & M. R. R. Co., 80 M. W. 241 (Mich.)—A deaf man walking along a railroad track attempted to cross the same at a street crossing where a flagman was stationed to give warning of the approach of trains. Before starting across he had been hailed by workmen on an approaching hand-car, but failed to hear their call and was injured by the car in consequence. He had no warning from the flagman of the hand-car's approach. *Held*, that no negligence could be imputed to the company because of the flagman's neglect to warn, when he did not know that the injured man was deaf.

This seems to be a strange and not altogether correct decision in view of the general rule that a person injured while crossing a railroad track at a street crossing has a right to rely, as the plaintiff did, on the flagman to give him notice of the approach of trains. Cf. *Richmond* v. *R. R. Co.*, 87 Mich. 374, where plaintiff recovered damages because the necessity of a warning was apparent to the flagman, but he neglected the duty of giving notice of an approaching train.

The fact that the operators of the hand-car gave warning ought not to excuse the flagman from doing the same, for it would seem to be as much his duty to give notice of the approach of a hand-car as to warn persons of an oncoming locomotive or train, and this duty should exist irrespective of whether the men on the hand-car gave notice or not. The placing of flagmen at street crossings in populous districts is an additional safeguard required, besides the warning signals from trains themselves.

RESTRAINT OF TRADE—EXTENT TO WHICH ALLOWED—SADDLERY HARDWARE Co. v. HILLSBORO MILLS, 44 Atl. 300 (N. H.).—Defendant agreed in writing to sell and ship to plaintiff 622 blankets of different styles, at prices specified and "not to sell blankets to anyone else in New York City." There was no limitation as to time. *Held*, the contract being in restraint of trade, is not to be extended by construction beyond the fair and natural import of the language used, and that agreement will continue only for such length of time as will afford the buyer a reasonable opportunity for disposing of the goods in the usual course of trade with the exercise of due diligence.

This principle of construction shows the disfavor in which the law still holds contracts in restraint of trade. As was said in a New York case, *Greenfield* v. *Gilman*, (140 N. Y. 168), "while the law, to a certain extent, tolerates contracts in restraint of trade or business, and will uphold them, they are not to be treated with special indulgence." The same principle was applied in determining the territorial limits in which contracts operated as a restraint in *Smith* v. *Martin*, 80 Ind. 260, and in *Roller* v. *Ott* 14 Kan. 609, it was said provisions of such a contract should not be extended by construction or implication beyond what their terms clearly require. *Harkinson's Appeal*, 78 Pa St. 196, is to the same effect.

SHIPPING—TEST OF MASTER—LIABILITY OF OWNERS—GUTTNER ET AL. v. PACIFIC WHALING Co., 96 Fed. 616.—The masters of two whaling ships, together with natives living on shore, took from an ice-bound vessel, without consent of those in charge, certain provisions. *Held*, that the principle of joint tort feaser does not apply, and that the owners of one of the vessels could only be held liable for the value of such stores taken as were used by his ship, and which it would have been within the scope of the master's employment to secure.

In this case we find the principle of joint tort feasers modified by the rules that govern the relation of principal and servant. If the master of the offending vessel had been sued he could have been held as a joint tort feaser for the entire damage resulting from the acts of all. But if the plaintiff elects to sue the company, it seems that he must forego the advantage that an action against the master would give him. For by the law of torts he can only hold the company liable to the extent of such acts of the master as were in the scope of his authority. *Armory* v. *Delamirie*, 1 Strang. 505.

TAXATION—UNIFORMITY—IN RE PAGE, 58 Pac. Rep. 478 (Kansas).—At the last session of the Kansas Legislature an act was passed providing for the taxation of contracts of insurance made with insurance companies not authorized to do business in the State. *Held*, to be unconstitutional for lack of uniformity.

This enactment is illustrative of the hostility of petty officials toward wealthy corporations who are non-residents. In Kansas it is required that all property shall be taxed at its true value in money. The point was well made by the court that the tax was not uniform, as no account is taken of the solvency of the company, or that the values of other property may fluctuate, or the rate of taxation thereon may change from year to year, while the rate of taxation levied on the property in question remains unchanged. The ununiformity of imposing a tax on a man who insures in a company unauthorized to do business in the State, and the exempting of his neighbor who insures in a licensed company, is obviously unconstitutional. *County of Santa Clara* v. *Southern Pac. Ry. Co.*, 18 Fed. 385.

TRADE-NAMES—INJUNCTION—USE OF OWN NAME—ARNHEIM V. ARNHEIM, 59 N. Y. Sup. 948—"Arnheim the Tailor" dropped the word "Tailor" and adopted the name "Marks Arnheim." Two years later the defendant, whose father-in-law had once used the name "Arnheim the Tailor" in New York, but had abandoned it twelve years before and moved to Chicago, opened a store in New York, using the name "Arnheim the Tailor." She issued receipts, guarantees, and catalogues similar to the plaintiff's and used similar boxes, ordering them from the same people. She exhibited a photograph of the plaintiff as that of the proprietor of her store and arranged her store practically in the same manner as the plaintiff's. *Held*, the plaintiff was entitled to an injunction restraining the defendant from the use of the word "Arnheim" as a trade-mark.

The case shows how absolute has become the authority of the doctrine of "Fair Trade." The defendant was entitled to use her own name as a trade-mark in a business conducted on its own merits and not feeding upon the reputation earned by the sagacity of another. *Chas. S. Higgins Co.* v. *Higgins Soap Co.*, 144 N. Y. 462; *Devlin* v. *Devlin*, 69 N. Y. 212; *Gilman* v. *Hunnewell*, 122 Mass. 139; *Saxlehner* v. *Apollinaris Company*, 1897 L. R. 1 Ch. 893; *Hires Co.* v. *Hires*, 182 Pa. St. 346.

TRUSTS—LIABILITY OF FUND FOR DEBTS OF BENEFICIARY—FIRST NATIONAL BANK OF PLAINFIELD V. MORTIMER, 60 N. Y. Sup. 47.—A mother devised property in trust, the income therefrom to be applied to the use of her son during his lifetime, and giving said son power to dispose of the property by will. *Held*, that neither the principal or income of such fund could be subjected to the payment of the beneficiary's debts, even for necessaries, and also, that as it is impossible to determine how much of such income is a surplus over and above the proper necessities of the beneficiary, such surplus cannot be reached.

Although this decision is based upon statute law and is in harmony with the prior New York decisions (*Graff* v. *Bennett*, 31 N. Y. 12; *Williams* v. *Thorn et. al.*, 70 N. Y. 270), yet it is of interest inasmuch as it is in opposition to the more generally accepted view. It also points out the extreme liberality extended to such trusts, and the tendency of New York to enlarge the doctrine as existing in other States.

The English rule has been in favor of the right to apply trust property to the satisfaction of the beneficiary's debts, *regardless of the provisions of the settlor*. 1 *Smith Leading Cases* 119; *Dick* v. *Pitchford*, 1 Der. & Bat. 480. It has been followed in this country by the weight of authority, but subject to the rule that some minor limitations upon the liability of the trust fund should be allowed. *Nichols* v. *Eaton*, 91 U. S. 725; *Leavitt* v. *Birne*, 21 Conn. 1; 27 *Am. and Eng. Enc. of Law*, p. 237; *McIlwaine* v. *Smith*, 92 Am. Dec. 295; *Mandlebaum* v. *McDonald*, 29 Mich. 781. These limitations, however, have never been of great indulgence to the beneficiary, usually providing for the cessation of his interest upon his insolvency or attempt to subject it to debts.

WILLS—EXECUTION—SIGNATURE AT THE END—IN RE ANDREWS' WILL, 60 N. Y. Sup. 141.—A will was drawn on a printed blank folded in the middle so as to constitute four pages connected at the side. A printed introduction and clauses in writing occupied the first page, and on the reverse side of same was contained an appointment of executors, attestation, etc., properly filled in and signed by the testator and witnesses. At the top of this was written "third page." On what would ordinarily be called the third page various clauses disposing of the property were entered. At the top of this page was marked "second page." *Held*, not properly executed and signed under a statute requiring a will to be "signed at the end thereof."

At first impression this seems unnecessarily rigid, especially in view of its being so often done in ordinary correspondence on paper so folded. But the statute was passed to remedy an evil. If a will could be so made on a printed form, why not in like manner, though entirely written. What would then prevent the adding of a page to a will by simply writing "3d page" where it would very naturally have been omitted by the testator, and "2d page" upon the part added. *Hays* v. *Harden*, 6 Pa. 413; *Wineland's Appeal*, 118 Pa. St. 37; *Glancey* v. *Glancey*, 17 Ohio, 134; *Sisters of Charity* v. *Kelly*, 67 N. Y. 410; *Matter of O'Neill*, 91 N. Y. 516.