SUPREME COURT

Abstracts of Opinions Announced April 22, 1920.

CRIMINAL LAW—INSTRUCTION.

23661. George Kocher vs. State of Indiana. Grant C. C. Affirmed. Myers, J. (1) Appellant was convicted under the 1917 prohibition law. It was not error for the court to make a written modification of appellant's requested instruction, not stating the law erroneously as modified, as there is no prohibition against written modifications of requested instructions in criminal cases. It was not error to change the requested instruction "it is not unlawful for a person to have in his possession intoxicating liquors" etc., by the insertion of the word "necessarily" making it read "It is not necessarily unlawful" etc. (2) Where appellant contended that the court in reading his requested instruction orally inserted a word not contained in the written instruction, but such matter was only presented by affidavits made in support of his motion for a new trial, there was no such showing as required this court to review the question. (3) A showing by bill of exceptions that the appellant asked a juror a question on the voir dire, which was objected to by the state and objection sustained, without showing that the appellant exhausted his peremptory challenges nor showing what if any other questions were asked and answered, does not show prejudicial error. (4) The objected testimony about Love, though not to be commended, does not show prejudical error.

SURETIES ON NOTES—RELEASE OF PART.

23603. First National Bank vs. Frank Mayr, Jr., et al. St. Joseph C. C. Reversed. Myers, J.

The appellee and ten others signed an agreement that they would stand as surety to a named company with the appellant bank to the amount of $15,000. Pursuant to such agreement the appellant loaned the company $12,480 and the company became insolvent. Afterward one of the signers paid the appellant $10,000 and the appellant executed an agreement to hold him and two of the other signers freed from further obligation. Afterward the appellant sued appellee for the remaining debt. A demurrer was sustained to the complaint. The court holds that the obligation by its terms made the signers severally liable for the debt of the company, and that the agreement executed by appellant to the one paying the $10,000 would only operate to prevent a recovery of any contribution which another signer sued might have a right to enforce, and as the $10,000 paid was far more than the proportionate share of the three released from obligation, that it could not harm the appellee. The question is discussed at length.

Appellate Court.

JUSTICES OF PEACE—INSANITY INQUEST FEES.

10316. Charles H. Mueller vs. Board of Commissioners. Marion S. C. Reversed. Nichols, C. J.

(1) The appellant is a justice of the peace in Center township, which is the center of the city of Indianapolis. The statute provides that justices in that township shall receive $2,000 a year and shall not receive the fees prescribed in that statute. The appellant brought this action to recover insanity inquest fees as prescribed. The statute regulating most of the fees and prescribing that the justices of Center township shall be paid $2,000 a year was amended to its present form in 1913, and has no reference to insanity inquests or fees therefor. The act of 1853 as amended in 1901 provides for the fees in insanity inquests and gives $1 for the filing of the papers with the clerk. The court holds that unless this act is held to be still in force as against the provisions of the amended act of 1913, it would cut all of the justices of other townships of the state out of any pay for doing a laborous act, and for that reason will be held to be in addition to the provisions of the amended 1913 act. (2) The fact that the complaint did not allege that the appellant had presented his claim to the board and it had been disallowed did not make complaint insufficient.

PLEADING—COMMON COUNTS—EVIDENCE.

10345. James S. Randolph vs. Bernard King et al. Clinton C. C. Affirmed. Nichols, J.

This is an action by appellees for goods sold and delivered. The appellant answered and set up a counter-claim for damages for failure to fulfill contract. Finding for appellees and against appellant's cross-complaint. The fact that the goods sold by appellees were upon written orders did not prevent the appellees from bringing action on a common count, while if there should be held to be a variance, under the statute there could be no reversal, as the appellant could not have been misled thereby.

MORTGAGES—ASSIGNMENT AND RECORD.

10309. Abner Goldenson vs. Emma Leiberman. Starke C. C. Affirmed. Nichols, C. J.

The owner of lands mortgaged them to N., who thereafter assigned the notes and mortgages to B., who afterward assigned them to appellant, but the assignments were not recorded until March 29, 1916. The owner of the lands then conveyed them to G., who afterward, without notice or knowledge, executed new notes and mortgages to A. and to N., and N. at that time, July 21, 1915, released of record the mortgage. The appellant brought this suit to foreclose the mortgage. The court holds that the assignments, not having been recorded, the release by N. operated to release the mortgage. The trial court found for appellant only against a guarantor of the notes and mortgage at the time N. assigned them, and holds that the evidence, not being in the record, there is no showing that the court erred in failing to give judgment for attorney fees against him.

PLEADING AND PROOF—VARIANCE.

10341. Moses Sapirie vs. Henry Wells. Marion S. C. Affirmed. Nichols, C. J.

Suit on a promissory note; the exhibit to the complaint showed it as signed by "Henry Wells." The evidence tends to show that the note was signed on the top line by "N. Wells" and on the second line by "Henry Wells," and the appellee says that the trial court informed the appellant that he did not consider the note followed the complaint. The appellate court holds that there is such variance that it will not reverse the trial court, at least not upon the showing made.

WATERS AND WATERCOURSES—BURDEN OF PROOF.

10353. John Ransey et al. vs. Walter Ketcham. Monroe C. C. Affirmed. McMahan, J. Batman, J., not participating.

This is an action by appellant for damages and to enjoin the appellee from maintaining a dam across an alleged watercourse. The findings of facts do not show the existence of any watercourse, but show the construction of a culvert by the railroad to let water flow through where there had never been a defined watercourse. The matter of what constitutes a watercourse is discussed, and it is held that the trial court's findings, in which waters are referred to as 'surface waters,' may be considered as findings of facts, but if they are conclusions of law it does not help appellant as the burden was on him to prove a watercourse, and eliminating the alleged conclusions in the findings of facts, the conclusions of the court against him would be correct.

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SPECIALS

Wonderful Reductions for These Saturday Specials

SUITS REDUCED

Handsome tricotines, fine serges, check velours, silk lined. Smart models in all sizes; values to $59.50 ..... $35

COAT BARGAINS

Beautiful coats of polo, silvertone, goldtone and velours, brand new models in all colors, values to $39.50, Saturday, $25.00 and $19.50

Complete Line Suits, Dresses and Skirts for Large Women, All at Cut Prices.

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202 SOUTH ILLINOIS STREET

ARMY AND NAVY GOODS

Complete Line of Officers' Raincoats. Also Mole, Tweed and Leather Coats at Reduced Prices

Just Received a Shipment of New Summer Weight Goods

Hobnail and Field Shoes, repaired	$2.85	New Khaki Breeches	$2.45
New Infantry Munson Last Shoes	$5.85	Officers' Leather Puttees	$5.00
New Goodyear Welt Army Shoes	$7.35	Army Slickers and Raincoats (reclaimed)	$3.45
Socks (light weight), 3 pairs, $1.00; pair	35c	Plaid Back Raincoats	$7.50
Reissue Overalls and Jumpers	85c	Serge Raincoats	$8.50
New Army Blankets	$5.85	Leatherette Raincoats, full length	$19.65
Khaki Shirts, fine quality	$2.50	Moleskin Raincoats, gray and tan	$24.75
Regulation Summer Shirts and Drawers	85c		

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Open Until 9:30 Saturday Night.

LIVE HAT NEWS FOR LIVE MEN

Early Purchasing Linked Up With "Satisfied-With-Less Profit"

Enables Us to Start Our Hat Line at $3.00 Instead of $4.00.

LEADING STYLES FROM LEADING MAKERS

$3, $4, $5 Up to $8

On Today's Market, Our Hats Are Priced to You at Wholesale.

Striking Caps, $1.50 to $3.00

SUMMER UNDERWEAR

$1.00 to $4.00 a Suit

Best Makes Only.

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Several Thousand Feet of the Best Values and Choicest Patterns of Wall Paper for Every Room. You Will Enjoy Selecting Paper Here.

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This Large Size Clothes Hamper Only 89c

Complete, with hinged lid. If you didn't get one our last sale, come early Saturday.

BABY BED Bargain, Only $9.83

This full size iron crib, both sides drop automatically, comfortable springs, finished in rich golden Vernis Martin. Regular price $15.00.

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World's Fair Furniture Co.

CASH OR CREDIT. 327-329 W. Wash. St. "WE TREAT YOU RIGHT."

Novelty Cretonne Pillows, 1.10 to 4.49

Round, oval and fancy shapes in pillows for sun porch and canoe. A wide selection of bright colorings; trimmed in button, braid and stitching.

(First Floor)

H.P. Wasson & Company

New All-Wool Surplice Sweaters, 6.95

One of the newest fancies in spring sweaters. Fine yarn, knitted in lace stitch. Plain neck line and sash of a heavier weave. Colors, peacock, brown and navy.

(First Floor)

A Special Purchase, Just in From New York and a Wonderful Group From Regular Stock Join Hands—Saturday in

A SUIT Event---of Pre-Eminent Interest

Boys' Wash Suits, 3.69

Regular 3.95 Suits

Any kiddie looks cute in these pretty Norfolk, middy or Oliver Twist suits.

The pockets on either side have such a saucy look, and the white waists stitched and smocked in the color of the pants add to the very attractive effect.

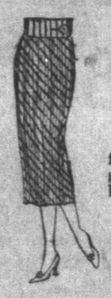
PINK, BLUE AND CHECKED EFFECTS, ALL DESIRABLE COLORS.

Sizes for "young men," 2 to 6 years old.

(Wasson's, Fourth Floor)

Spring's Smartest Styles in

Plaid and Striped SKIRTS



22.50 to 35.00 Values at— 17.50

All-wool materials, fashioned into swagger skirts, in popular—

Box Pleats
Accordion Pleats
Knife Pleats
Side Pleats
Sports Models

Every skirt is new—just the style which will be best for late spring and early summer—in the colors most in demand.

(Wasson's, Second Floor)

Saturday—Another Demonstration That Proves the Superiority of Wasson Hats in Style, Quality and Value.

New Hats

—The Leading Fabrics
—The Smartest Styles
—The Best Colors

$5

An event well planned and opportunely held. For these are the attractive sort of hats that will be much in demand for late spring and summer wear. Many becoming styles.

Small, close fitting hats, wide irregular brimmed hats, sailors with straight, rolling or mushroom brims, chin-chins and many others.

THE STRAWS INCLUDE—

Patent Milans, Japanese Straws, Rough Straws, Transparent Hats, Raffia, Leghorns, Lisères, Milans

Smartly trimmed with flowers, glycerined ostrich, grosgrain ribbon and fancy ornaments.

(Wasson's, Third Floor)

A Remarkable Sale—Suits Authoritative in Style—Exceptional in Quality

$45

Suits of Tricotine Are the Favorites of Spring

and are here, in this sale, in a charming variety for your selection. Fully 90% of these suits are of this fabric in navy blue. There are also suits of

—Silvertones *—Poiret Twills*
—Fine Serges *—Mannish Checks*

Suits that are the fashions themselves from the best style sources of New York. Every approved fashion is here:

Ripple, bolero, pleated, embroidered, braided and button trimmed styles, as well as the severly plain tailor-made, for those who favor it. Short, jaunty

ETON AND BOX-COAT MODELS

are extremely prominent in many variations. Many are belted in novelty manner. Sizes for women and misses—sale price, 45.00.

(Wasson's, Second Floor)

Models Pictured Included.

Important

EXTRAORDINARY VALUES

For Saturday Only

Men's 65c Linen Handkerchiefs, 50c

Full size, soft finish. Quarter-inch hems. Each, 50c. 6 for 2.75.

(First Floor)

Wasson Special Corsets, 3.00

Plain broche and striped coutil corsets with elastic top and Velastic inserts in the bust. High back. Models for the slight and medium figure.

(Fourth Floor)

10.00 Sweaters, One-Half Price

All-wool coat sweater, made with sailor and coat collars, belts and sash. Colors are Copen, red, purple and rose. Special for Saturday, 5.00.

(First Floor)

69c Moire Ribbon, 49c

Good looking ribbon, five and one-half inches wide, in a complete assortment of colors. Excellent quality for hairbows and sashes.

(First Floor)

Bag Frames, Special at 98c

Metal styles in oriental and imitation Dutch silver motifs. Also imitation celluloid in shell, demi and amber.

(First Floor)

1.25 Box Stationery, 89c

Highland Linen Lawn quality, 24 sheets of note paper and 24 envelopes in box. White and tints.

(First Floor)

12.50 Silk Bags, 8.75

French Moire and embossed faille, in the latest shapes. Double pocket with heavy silk tassel, or one-piece style with stationary coin purse. Colors are black, navy, brown, taupe; metal or shell frames.

(First Floor)

5.98 Moire Silk Bags, 4.69

A variety of styles; covered and metal frames; fitted with coin purse and mirror. Heavy silk tassels. Colors are black, navy and taupe.

(First Floor)

Saturday—an Important Event—Second Floor

Blouses of Georgette

With Demure Short Sleeves

Have a way all their own in telling about their Extraordinary Value at— 5.95

You are going to recognize the worth of these blouses the moment you lay your eyes on them. They are just that wonderful.

And the Georgette is of a Heavy, Fine Quality

All Wanted Shades

Blouses with tinsel thread embroidery, cut steel beaded, silk embroidered, colored bead embroidered, chenille embroidered, models with lace collars, cuffs and panels, tucks and frillings.

(Wasson's, Second Floor)

A Typical Wasson Glove Event That Women Will Welcome!

1,200 Prs. Women's Silk GLOVES

Every Pair First Quality. We Do Not Carry Seconds.

97c

A special purchase of 76 dozen pairs of fine pure silk two-clasp Gloves will be placed on sale Saturday.

To these we have added 288 pairs from regular stock.

All have double finger tips, in two-clasp style, with three-row, Paris point, two-tone or self-embroidery. Colors are pongee, gray sand, tan, salmon, black and white.

ALL SIZES BUT NOT ALL SIZES IN EACH COLOR.

(Wasson's, First Floor)

A Coat One Must Have and Here is a Splendid Featuring of New

Spring Coats

Fashionable Short and Three-Quarter Lengths

25.00

Tan, Blue, Brown, Navy, Gray, Mixtures

Developed of polo cloths, camelshair, goldtones, velours and serges.

Narrow shoulders and slender belts, which hold the fullness at the waistline, are smart features of these coats. Convertible collars, button trims and regulation and raglan sleeves. A wide variety of styles at 25.00.

(Wasson's, Second Floor)

Breaking Every Record for High Values—These

Silk Shirts

Regularly 15.00 Superb Qualities,

$12

(The Government Tax is 90c)

A sale that is conspicuous by the superiority of the merchandise. Only our regular 15.00 shirts are included, without the addition of a single shirt "specially purchased."

FINEST SHIRTS OF—

Crepe de Chines, Jersey Silks, Taffeta Satins

Notwithstanding the reduced price, the shirts offered are "Wasson Label" qualities, all from regular stock, and that means that every one is perfect, and of highest quality standard.

(Wasson's, First Floor)

Special for Saturday! 3.50 Qualities in

Women's Silk Stockings

2.95 Pr.

Every Pair Perfect Quality — Wasson's Does Not Carry "Seconds"

360 pairs of women's black silk hose, full fashioned and perfect fitting. Every thread pure silk; reinforced heel, toe and sole. An extraordinary value for Saturday only, 2.95 pair.

(Wasson's, First Floor)

For One Day Only—a Sale of—

Glove Silk Underwear

At 5.95

Silk Vests

Band or bodice top style, pink only, extra heavy quality of silk. Special at 5.95.

Bloomers

Heavy glove silk bloomers, strongly reinforced. Pink and colors. Special at 5.95.

Union Suits

Band and bodice top styles, cut extra full to assure comfort. Special at 5.95.

(Wasson's, First Floor)

Featuring for Saturday FOURTH FLOOR

Girls' Coats

23.75

Materials, fit and clever designing—just the things that count most with girls of 8 to 17 years and their mothers, are emphasized in this group of spring coats.

Short and Three-Quarter Lengths Predominate

Trimmings of tucks, buttons, self and narrow leather belts and shawl or tailored collars. Come and choose your coat Saturday at a substantial saving.

19.75 Girls' Skirts, 14.75

Large plaids and stripes in all wool materials. Brilliant and subdued colorings.

Knife or box pleated styles. Deep hems. Lengths 26 to 30 inches.

Girls' Serge Suits, 39.50

All-wool serges in navy and light colors. Tailored and novelty styles.

Narrow belts and shoulders—very smart. Sizes 14 to 17 years.

(Wasson's, Fourth Floor)