:t from the dignity of the ntire proceeding. No court r litigants, the bar, or the respect for its proceedings self is lacking in the dignity end the trial of causes; but cpression of the court, how-le it may be, that will work a judgment. The remark urt in this case applies as mony of the witness offered below as it did to the testi-ie witness when offered by elow. In the case of State an. 686, 35 Pac. 780, a wit-ully giving testimony before a response to an objection ry, the trial court remarked, that the state could just let ight on with his romance." k touching the testimony of ced by the defendant alone, f a felony case; and while t, in passing upon the re-l court, criticised its action et they declined to reverse account of such a remark. ı, had the remark not been made by the trial court, the een impressed with the fact Carlton did, either in the the other, testify falsely up-icts at issue, and we appre-have given neither deposi-in the determination of the see that the plaintiff in er-ed by the remark of the re the judgment will not be nt of such remark.

last reason urged for a re-gment is that the verdict is sufficient evidence, and the plaintiff in error reiterates gard to the question of spe-)wnership claimed by the id refers particularly in his rit in replevin made by the A careful examination of 's to us that practically the nade therein as was made etition upon which this case ile the affidavit makes use "special ownership," yet it he hogs were bought with ntiff, under a contract with plaintiff was to furnish the hogs purchased with such shipped and sold in plain-hat of the proceeds of the to have no part excepting the profits. These specific nsistent with general own-ie whole theory upon which by both parties. There be-error, the judgment of the affirmed. All the justices

KEYSER v. REHBERG.

(Supreme Court of Montana. July 22, 1895.)

QUANTUM MERUIT—SERVICES RENDERED.

Plaintiff, who was employed by defendant to superintend a ranch at a fixed sum for a year, to be paid from the proceeds of the ranch, was forced, through the threats and orders of defendant, and without fault on his own part, to abandon the work before the end of the year. *Held*, that he could recover on a quantum meruit for the services performed.

Appeal from district court, Lewis and Clarke county; W. H. Hunt, Judge.

Action by Eugene Keyser against Edward Rehberg. There was a judgment for plaintiff, and defendant appeals. Affirmed.

G. W. Fleischer and Sidney Sanner, for appellant. C. B. Nolan, for respondent.

PER CURIAM. This is an action for work, labor, and services alleged by plaintiff to have been rendered to the defendant as a superintendent or foreman upon the ranch of the defendant. The defense set up in the answer was that plaintiff and defendant made a contract by which the plaintiff should conduct the affairs of the ranch for a year, and that defendant should receive $1,000 from the products of the ranch for that year, and that all over that sum should belong to the plaintiff. The replication of plaintiff admits that the contract between the parties was substantially similar to that alleged in the answer, and pleads further that before the completion of the contract the defendant ordered the plaintiff to leave the ranch, and drove him away by the use of dangerous weapons. It appeared by the evidence that a serious altercation took place between the parties before the termination of the year. The defendant, in his testimony, endeavored to make it appear that he was not greatly in fault, while the plaintiff's testimony was that defendant ordered him absolutely away from the premises, and assaulted him with a plowshare, and threatened to run him through with a pitchfork, and also threatened an attack with an iron rod. The testimony of the plaintiff was that he was compelled to leave the ranch by reason of the conduct of the defendant. There is ample evidence in the record to sustain the plaintiff's position,—that he was driven from the ranch by the assaults, threats, violence, and orders of the defendant, and that he did not leave through any fault of his own. If the defendant, by his own conduct, made it clearly impossible for the plaintiff to complete the contract which had been made between the parties, the plaintiff may recover upon quantum meruit for the services which he had performed up to the time when the defendant made it impossible for plaintiff to continue work under the contract. The trial was before the court without a jury, and the court evidently believed the testimony of the plaintiff, and found for plaintiff in the value of his services as a laborer upon the ranch. The court also allowed a counterclaim of $171 in favor of the defendant.

The evidence is ample to sustain the judgment and the decision. The appeal is from the judgment, and also from an order denying a new trial. There is no judgment in the record in the case, and that appeal must be dismissed. The order denying a new trial is affirmed.

HUNT, J., not sitting.

BACH, CORY & CO., Limited, v. BOSTON & M. CONSOLIDATED COPPER & SILVER MINING CO.

(Supreme Court of Montana. July 29, 1895.)

ASSIGNMENT OF CONTRACT — LIABILITIES OF ASSIGNEE.

1. In an action on a contract, brought by the assignee thereof, who, by the terms of the assignment, had expressly agreed to carry out all the conditions of the contract, "for and in the place and stead of" the assignor, the defendants set up a claim for certain goods delivered by them under the contract, and offered in evidence an itemized list of such goods, together with proof that the goods were delivered to the assignor's predecessor under the same contract sued on. *Held* admissible.

2. Where the terms of an assignment of a contract bound the assignee to perform all the conditions of the contract for and in the place of the assignor, the liability of the assignee related back to the date of the contract, and not merely to the date of the assignment.

Appeal from district court, Cascade county; C. H. Benton, Judge.

Action by Bach, Cory & Company, Limited, against the Boston & Montana Consolidated Copper & Silver Mining Company, for breach of contract. Judgment for plaintiff, and defendant appeals. Reversed.

Cooper & Piggott, for appellant. Leslie & Downing, for respondent.

PER CURIAM. Action in contract. On January 28, 1892, McDonald & Brand, as a firm, executed a contract with defendant. By the terms of the agreement McDonald & Brand were to carry on a boarding and mess house for the defendant for the period of one year, or until January 28, 1893. The defendant furnished McDonald & Brand certain buildings, and a large amount of such personal property as would ordinarily be connected with the business of a boarding or mess house. It was agreed by McDonald & Brand, in the contract, that they would keep the buildings in repair, and replace any breakage, and repair any damage, that might occur through their neglect, or through the neglect of any of their employés, during the life of the agreement, and to replace and repair fixtures that might be broken. The defendant was to protect McDonald & Brand in their board collections, deducting the same from the monthly pay roll of its employés. Afterwards, on February 26, 1892, McDonald