



1944

## Our Supreme Court Holds

North Dakota State Bar Association

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Patton's Digest Banking Law—2 Vol.  
 Tiffany Real Property—1903—2 Vol.  
 Abbotts Trial Brief—2nd Ed. Civil Jury Trial, Mode of Proving  
 facts, Pleading (2 Vol.) 4 Vol.  
 Dakota Codes—1877.  
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 North Dakota Codes—1895—1 Vol. 1899—1 Vol. 1905—1 Vol.  
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 North Dakota Session Laws, complete 1885 to 1933.  
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C. H. STARKE, Attorney at Law  
 Dickinson, N. D.

### OUR SUPREME COURT HOLDS

In Kathrein Foster, Pltf. and Respt., vs. National Tea Company, a corporation, Deft. and Applt.

That the presumption that continued possession by a lessee after the term of a lease of real property and the acceptance of rent by the lessor operates to renew the lease upon the same terms and for the same time, not exceeding one year is a disputable presumption.

That where a lessee continues in possession of leased premises after the term of his lease with the consent of the lessor, but it appears from the evidence that both the lessor and the lessee were dissatisfied with conditions of the lease and for some forty days subsequent to termination of the lease conducted negotiations for a new lease, such evidence disputes the presumption that the parties extended or renewed the prior lease.

That where, subsequent to the abandonment of unsuccessful negotiations between a lessor and a lessee for a new lease, the former tenant remains in possession and the landlord accepts rent from him, a new tenancy is created, the conditions of which, if not expressed, must be inferred from the acts of the parties and other circumstances.

A lease of real property, other than lodgings, in places where there is no usage on the subject, is presumed to be for one year from its commencement, unless otherwise expressed in the lease. (Sec. 47-1605 R. C. 1943). Appeal from the County Court of Wells County, Whipple, J. Opinion of the court by Burke, J. **AFFIRMED.**

In the Matter of the Application of Thomas H. Amundson to Be Admitted to Bail Pending the Determination of Habeas Corpus Proceeding.

That the statutes of North Dakota do not provide for admission to bail, pending the determination of a habeas corpus proceeding, of a fugitive from justice who has been taken into custody under a warrant issued by the Governor of this State upon the requisition of the Governor of another state.

That the courts of this state do not have inherent power to admit a person to bail who is held in custody under a warrant of rendition issued by the governor in extradition proceedings.

That the provision of section 6 of the North Dakota Constitution that, "All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great" does not apply to persons who are held in custody under executive warrants of rendition in extradition proceedings.

That a fugitive from justice who is held in custody by virtue of a warrant issued by the Governor of this State in an extradition proceeding may not be admitted to bail pending a final determination of an application for release upon a writ of habeas corpus.

Original application to be admitted to bail.

**APPLICATION DENIED.**

Opinion of the Court by Morris, J. Christianson, C. J., disqualified, did not participate.