wise recognizes the fact that a city may act in two capacities, but attaches liability because "the same law imposing liability on a municipal corporation for injuries due to defective conditions in highways imposes a duty upon the municipal corporation to keep its public parks in a reasonably safe condition for all who frequent them." S. H., '30.

STATUTES—CONSTITUTIONALITY—UNCERTAINTY IN TITLE.—The plaintiff sought to establish the paternity of her illegitimate child under laws of Missouri 1921, p. 117, which described the manner in which a bastard's paternity could be established. The title to the act upon which the plaintiff relied reads:

"An act to repeal Sections 311, 312 and 314 of Article XV, of Chapter 1 of the Revised Statutes of Missouri for the year 1919, entitled 'Descents and Distributions,' and to enact four new sections in lieu thereof, all relating to the descents and distributions of estates and to form a part of the said Article XV of said Chapter 1, said sections to be designated and numbered, respectively, as Sections 311, 311a, 312 and 314." *Held,* the act is unconstitutional because it violates Article IV, Section 28, of the Missouri Constitution, which reads: "No bill . . . shall contain more than one subject, *which shall be clearly expressed in its title.*" *Southward v. Short* (1928), 8 S. W. (2d) 903.

In ruling for the defendant, the Court held the statute unconstitutional for these reasons: (1) the title to the bill contained a wrong numbering of a section of the Revised Statutes, since Art. XIV of Chap. 1 is referred to as Article XV; (2) the substance of the statute does not seem logically to fit under "Descents and Distributions."

The provision in the Missouri Constitution is a typical one, a similar provision is to be found in the constitutions of most states. Const. Ala., Sec. 45; Const. Ill., Art. 4, Sec. 11; Const. N. Y., Art. 3, Sec. 16. The provision has for its foundation, the Court says in quoting from COOLEY on Constitutional Limitations, the purpose of preventing fraud on the legislature and surprise on the people in considering and voting upon a bill. The subject which a proposed bill embodies is to be presented clearly to the legislature and to the people.

The constitutional provision in question, then, is well founded in sense. But its application in the instant case is questionable. The method used *i.e.,* referring to the statute by number, is one which has the sanction of the courts. "The practice of amending statute laws by reference to the sections contained in the volume of authorized revisions of the state is the established law." *Burge v. Wabash R. R.* (1912), 244 Mo. 76, 148 S. W. 925; *State. v. Doerring* (1905), 194 Mo. 92 S. W. 489; *State v. Murlin* (1897), 137 *State v. Doerring* (1905), 194 Mo. 398, 92 S. W. 489; *State v. Murlin* (1897), 137 Mo. 297, 38 S. W. 923; *State v. Broadnax* (1910), 228 Mo. 25, 128 S. W. *guson v. Gentry* (1907), 206 Mo. 189, 104 S. W. 104. Not another case has been found which holds unconstitutional a statute because of a mistake in numbering the section being amended. The probability is that such mistakes are very rare. The substitution of XV for XIV should not give the court

the privilege of nullifying the intent of the people as expressed, even with a slight mistake, by their representatives in the legislature.

The other reason assigned by the Court for holding the statute unconstitutional has prior judicial decisions to corroborate it. *State ex rel. v. Revelle* (1917), 257 Mo. 539, 165 S. W. 1084, holds an act unconstitutional because the title purported to define indemnity contracts, whereas the body of the statute declared that certain contracts did not constitute insurance contracts. See also *St. Louis v. Wirtzel* (1895), 130 Mo. 616, 31 S. W. 1045; *State ex rel. v. County Court* (1891), 102 Mo. 539, 15 S. W. 79; *State v. Coffee and Tea Co.* (1903), 171 Mo. 642, 71 S. W. 1011, 94 Am. St. Rep. 804; *State v. Boergdoefer* (1891), 107 Mo. 30, 17 S. W. 646, 14 L. R. A. 846, For numerous other cases in support of the holding see annotations to Art. 4, Sec. 28 of the Missouri Constitution. There are, however, a number of Missouri cases, which, while not disregarding the constitutional provision, are at variance with the instant case in regard to the rigidity with which such a provision should be applied. The Missouri Constitution of 1865 contained a provision similar to Art. 4, Sec. 28. In applying that provision the Court said, in *Matter of Burns* (1865), 66 Mo. 442: "But admitting it to be a doubtful question, our duty is to uphold the act of the legislature. Only when there is a clear conflict between a legislative enactment and the constitution, are the courts warranted in declaring the law to be void." See also *Burge v. Wabash R. R. Co.* (1912), 224 Mo. 76, 148 S. W. 925. There the Court said that the provision in question should be liberally interpreted, and not applied so as to thwart intelligent and salutory legislation, and that the provision does not forbid in one bill under one general title subjects naturally and reasonably related to each other. Accord: *Obrien v. Ash* (1901), 169 Mo. 283, 69 S. W. 8; *State ex rel. v. Mead* (1879), 71 Mo. 266; *State v. Doerring* (1906), 194 Mo. 398, 92 S. W. 489; *O'Connor v. Transit Co.* (1906), 198 Mo. 662, 97 S. W. 150.

M. E. C., '29.