

The Charlotte Observer.

THE STATE SUPREME COURT

Digest of Opinions, Oct. Term, '85

Non-Adverse Sheets of Attorney General T. F. ...

Divol vs. Hallyburton.

1. A court of equity will not interfere by injunction to stay an execution ...

2. A vested remainder may be sold under execution, but a contingent remainder cannot.

3. A sale under an execution issued upon a judgment which is a lien on all the debtor's property, vests in the purchaser only the interest of the debtor at the time the judgment lien attaches, and if the debtor has no interest subject to sale under execution the purchaser gets nothing.

4. So where a judgment debtor applied for an injunction to restrain the sheriff from selling a contingent interest in land which was not liable to be sold under execution, it was held that the injunction should have been refused.

Witt vs. Long.

1. While it is better and more convenient to have the record printed as soon as the case is docketed in the Supreme Court, and this practice is commended by the court, yet it is a compliance with the rule if the record is printed when the case is called in its order for argument.

2. Appellants should be careful to see that the rule is duly observed in respect to the parts of the record required to be printed, as it is intimated that mere colorable compliance will be treated as no compliance at all, and the appeal dismissed.

3. The statute does not require that the justification of the surety on the undertaking on appeal should state that he is worth double the amount of the undertaking above his liabilities and his homestead and exemptions allowed by law. It is sufficient if it state that he is worth double the amount therein specified.

4. A judgment by default final is regular in an action on an open account for goods sold and delivered where there is no express contract alleged in the complaint, but the plaintiffs only seek to recover on the implied contract the reasonable value of their goods. In such case the judgment should be by default and inquiry.

5. A judgment by default final can only be rendered when the complaint is verified.

Spicer vs. Gambill.

1. Where an execution is levied on bond before the expiration of the judgment lien, but the sale does not take place until after the expiration of such lien, the levy does not extend the lien to the sale, so as to defeat a purchaser or prior incumbrancer whose right attached during the existence of the lien, but before the levy.

If an execution issue more than ten years after the docketing of the judgment, a sale of both real and personal property under it is valid, but in such case it is only a lien on both real and personal property from the levy, and not from the lessee, of the execution.

Sawyers vs. Sawyers.

1. Under the Code system an execution which is issued after the death of the judgment debtor, although it bears teste before his death, confers no authority on the Sheriff to sell, and a sale thereunder is void; but before the Code of civil procedure was adopted a sale under such an execution would have been valid.

2. Liens on real property are now governed by the docketing of the judgment, and not by the issuing of process to enforce it.

3. When an execution is issued on an undocketed judgment, or one which has lost its lien on real estate by the lapse of time, it is a lien on both real and personal property from its levy.

4. Where a judgment debtor dies, the creditor cannot enforce the judgment by execution, but must collect his debt in the regular course of the administration of the estate.

5. The provision in the Code of civil procedure furnishing a remedy for enforcing the lien in case the administrator unreasonably delays settling the estate, has not been brought forward in The Code.

Walls vs. Williams.

1. Where, for a valuable consideration, one contracts to support another, he cannot recover in an action for services rendered such other party in nursing and attending to him in sickness.

2. So, where A leased B's farm for a term of years and the lease provided that he should furnish B and his wife plenty to support them, and should have the excess made on the farm, and B was stricken with a lingering sickness, in which A nursed and tended him; it was held, that A could not recover in an action against B's estate for such service.

Penniman vs. Daniel.

1. The Code gives to the Superior Courts the most ample power to allow amendments, and where an affidavit upon which a warrant of attachment was issued was defective, it may be amended.

2. A discontinuance results from the voluntary act of the plaintiff in not regularly issuing the successive connecting processes necessary.

3. Where a summons which is to be personally served is ordered to be issued by the court, it is not the duty of the clerk to issue it until it is demanded by the plaintiff; but when service is ordered to be made by publication, after the expenses are paid by the plaintiff, it is the duty of the clerk to obey the order, and make the publication.

4. So, where an order of publication was made, but by an oversight

in the clerk it was not done, and the defendant moved to dismiss the action on the ground that there was a discontinuance: It was held, that the judges had the power to allow the publication to be made, returnable to a future term of the court.

Mode vs. Penland.

1. Partners are individually responsible for the negligence of the servants and agents of the partnership, and when one of the partners does an act in the course of the partnership business he is considered in this respect as the agent of the partnership, and the other partners are liable, even if they did not assent to the act.

2. All torts are joint and several, and where one partner commits a tort in the prosecution of the partnership business, the injured party may, at his election, sue all the partners, or any one or more of them.

3. Evidence should never be rejected on the ground of variance, unless it has misled the adverse party in making his defence. So, where the complaint alleged that the plaintiff had been injured by the negligence of the defendant's agent, and the evidence was that it was by the negligence of his partner, the variance was immaterial.

Carlton vs. Byers et als.

1. Creditors are not proper parties to a proceeding brought by an administrator against the next of kin of his intestate for a settlement of the estate.

2. If an administrator should file a petition against the parties interested for a settlement before he has paid the debts, the remedy of the creditor is by a creditor's bill, in accordance with §1448 of the Code, or a creditor may bring an action on the administration bond.

3. Creditors are proper parties to a special proceeding brought by a legatee or distributee against an executor or administrator for an account and settlement of the estate; for, in such case, the legatee or distributee has a right to have an account taken to ascertain the balance, after providing for all the debts.

A NEW YORK BELLE'S BED-ROOM.

How Comfortably and Composedly a Millionaire's Daughter Sleeps.

Chicago-Herald.

Would you like to see how a New York belle of millionairism sleeps. I can gratify you so far as to describe with literal exactness the bedroom of a young woman whose name appears in print as often as anybody's in the society reports. Into it I was conducted, quite in the same matter-of-course way that the little lady of the house did everything that she willed and there we found the knick-knack which we were seeking for me to criticize or admire. But I confess I had eyes only for the room. It was quite as interesting to me as if it had been the bower of a princess; more so in fact, for more persons see behind the scenes in a princess's life than in those of a young American millionairess. The theatres endeavor to acquaint the masses with the interior of great mansions, places and abodes of the wealthy, but they show us only the drawing-rooms and dining-rooms. I suggest that they speedily vouchsafe to us all a view of the bedroom of a young lady of fashion. I don't know how they can do it exactly, but that is for them to find out.

I never saw a more beautiful place than the sleeping room of this young princess of fashion—this eldest child of a many-millionaire. The wall paper was pale gold on faint slate color. The gilt bedstead was pushed against a square of plaited silk of pale gold, with slate colored silk bows at the corner. Just such another square of plaited silk rose to the ceiling above the washstand. On that were only pitcher, bowl, soap dish, and so on, because running water is supposed to invite sewer gas, but all of the choicest ware. A great sheet of beveled looking glass, six feet high, swung on brass rods above the floor in one corner for the young woman to see her whole attire in. She had also a folding glass to reflect her ears, back hair and neck.

There was an open fireplace beside the hot-air register, a dressing stand laden with pretty toilet boxes and bottles, an ivory clock like a bird cage, in which ivory canaries trilled sweetly as each hour began; easy chairs and a rocking chair to match the wall paper and furniture, a pretty little pre-dieu for the young woman to say her prayer upon as fashionably as possible, and a wealth of little elegancies, completing a general effect that was exquisite, dainty, and inviting beyond computation. Opening out of this room the young millionairess had another apartment, where she wrote and painted and "worked," so to speak, but I did not see it.

It was while I was in her sleeping room that I noticed that nowhere in the whole house during a whole day's stay had I seen a single hint of disorder—no shoes in sight, no article of clothing lying on a chair or bed, no litter of any sort—everything, in short, as neatly ordered as if I was a child invited to call and see the perfection of home discipline. I confess that a tiny pair of kid slippers peeping from under the edge of the bed, or a hat and pair of gloves thrown upon a chair, would have made the room more interesting by connecting the maiden with it; but it was the rule of the house for such things not to be. Think of it. Eight servants to wait upon four persons.

The room in which the family assembles for conversation and the entertainment of company was across the hall from the parlor. It was quite as elaborately furnished as the parlor, but the carpet, chairs, and various appointments were not quite so new; in fact, they were worn just enough to be comfortable. The two front windows and one at the side commanded a general view of Fifth

avenue, and I noticed while I was there that the ladies watched what went on in the street with the same curiosity their poorer sisters possess; but they sat so far back from the space between the curtains that, while they could see everybody, nobody could see them from the street.

I noticed, also, that when a friend called at the house, if either mother or daughter saw the visitor in time she would go to the door herself before the person had time to ring the bell. And I observed another thing. There must have been \$10,000 in china, glass, bronze and marble in this sitting room, distributed over a couple of hundred little things useful and things ornamental. The members of the household would be glad to talk of any of these beautiful articles; would say what they were, where they came from and all about them, except the price. Money and price and cost, subjects so commonly by those of us who are obliged to think of such trifles, were never mentioned.

The folding doors between the front room and the next room were never drawn together while I was there. The next room was the library, walled in by bookcases of carved wood and beveled plate glass. The man of the house invited me in there to smoke and read. He had daily papers, all of them, on the centre table, two or three easy chairs, a drop light and a grate fire. He went to his room when he came in, exchanged his shoes for slippers and his coat for a loose jacket; then flung himself in a chair, lighted a cigar and trilled to read, while either his wife or his daughter sat on an ottoman at his feet, or on the arm of the chair he occupied. Wealth and happiness are said to be often strangers. These appeared to be the happiest people imaginable.

STATE NEWS.

Wilson Mirror: The Barefoot property sold on Monday for over \$16,000. The mills, with about a hundred acres of land attached, were bought by our wide-awake and prosperous townsman, J. T. Wiggins, for \$8,000. We learn that he will soon establish a cotton seed oil mill out there.

Winston Daily: With two hundred and twenty thousand dollars spent for new buildings, 30,000,000 pounds of freight shipped at our depot, and an increase of about 2,000 in population in the year 1885, the year 1886 will not fall short of doubling this record, judging from the present outlook. The Twin City's material prosperity grows more brilliant and permanent every day, and is a marvel to her sister towns.

Wilmington Review: Hon. Edward Cantwell, formerly of this city, was married at Christ Church, St. Simon's Island, Georgia, on the 2nd inst. to Miss Helen Richardson Gould.

Our genial friend, Mr. Thomas H. McKay, Jr., was married in Norfolk, Va., on late Tuesday, the 5th inst., to Miss Cooke, a beautiful and accomplished young lady of that city. They arrived in the city last night and are registered at the Orton House.

News & Observer: Durham has made a fifteen year contract with the Thompson-Houston electric light company, taking fifteen lights for that time. A large number of lights have been taken by manufacturers, business men and private parties.

Sheriff J. R. Nowell has settled with the county commissioners the taxes due the State by Wake. Schedule B and C yielded \$3,640.83; liquor taxes, etc., \$4,899.02. The total taxes were \$25,623.52. Wake pays the largest tax of any county in the State.

Newbern Journal: From parties just returned from Onslow court, we learn that a serious cutting affray occurred on last Monday night at Tarland, Onslow county. The particulars are as follows: The man that done the cutting, named Ballard—our informant did not ascertain his first name—arrived at the landing a little after dark on horseback and asked a respectable colored man living in the neighborhood to hitch his horse. His request was immediately complied with, and when the colored man returned Ballard asked him what he had done with the horse. Upon receiving a reply that he had "hitched him under a shelter," he rewarded the colored man's kindness by cutting him so seriously that his physicians are satisfied that he cannot recover.

Laurinburg Exchange: Mr. G. M. Whitfield informs us that he has sold 521 emigration tickets during the months of November and December, 1885, and 25 tickets since the 1st of January. Allowing three children to each ticket would make a total of 2,000 negro emigrants that have left this section, and still they go.—Daniel McRae was shot by some one as he entered his front door about 3 o'clock Wednesday morning. Though not seriously hurt, it alarmed Daniel, and he immediately suspicioned one Gabe Graham, colored, who was bound over to court in the sum of \$200.—To every doubting Thomas on the subject of the successful growing of tobacco in this section we extend an invitation to call on us and see the fine samples of tobacco grown by Mr. A. B. McNeill on land about three miles from here.

Mrs. Winslow's Soothing Syrup.

Dr. Sylvanus Cobb thus writes in the Boston Christian Freeman:—"We would by no means recommend any kind of medicine which we did not know to be good—particularly for infants. But of Mrs. Winslow's Soothing Syrup we can speak from knowledge; in our own family it has proved a blessing indeed, by giving an infant troubled with colic pains, quiet sleep, and the parents unbroken rest at night. Most parents can appreciate these blessings. Here is an article which works to perfection, and which is harmless; for the sleep which it affords the infant is perfectly natural, and the little cherub awakes as bright as a button." And during the process of teething its value is invaluable. We have frequently heard mothers say that they would not be without it from the birth of the child, till it had dined with the teething stage on any combination whatever. Sold by all druggists. 25 cents a bottle.

Open the Windows Every Day.

One of the most important causes of the greater prevalence of disease and the higher death-rate in the winter months, as compared with the milder seasons, is the absence of house ventilation or its imperfect character in cold weather. It should be unceasingly taught by the family physician that when doors and windows are closed to exclude the outer air there must be some other provision for the supply of fresh air, or sickness will result. Every stove, fire-place, or furnace used to warm a house not supplied with proper fresh-air inlets is an engine for sucking up the ground air from the polluted soil beneath the house and for drawing in the sewer air through every trap, wash-bowl, and closet.

Typhoid fever, diphtheria and pneumonia are the diseases most to be dreaded from such causes. There is reason to believe, indeed, that this latter disease is much more largely due to the contaminated atmosphere of dwellings than exposure to cold and inclement weather, to which latter cause it is usually attributed. Its relation with typhoid fever has long been observed by medical writers, and recent observations point to the presence of some of the microscopic filth organisms as its causative agent.

Thorough ventilation of sleeping apartments when not actually in use, and proper supply of fresh air when occupied, would do more to prevent these diseases than any amount of warm clothing, chest-protectors, etc. Open up the bedrooms during the sunny hours every day, and let them fill with the fresh, outdoor air.—Chicago News.

Sailors' Tokens, Charms and Keepsakes.

Sailors, the most superstitious of men, and oftenest away from Poll or Sue, are great at love tokens. They wear a charm on a silken string around their necks; they tattoo their manly arms with two hearts transversed by a single arrow, and marked respectively "Jack" and "Molly," and they believe, or pretend to believe, in the magic power of such symbolical unions to keep their affections true to their lady loves against all the allurements of alien beauty. Moreover, the keepsake, beside containing as often as possible the hair of the beloved object, is almost always made of the precious metals or precious stones.

There is a common though indefinite feeling that it ought to be something rather useless in gold or silver. It remains remotely true, in fact, to its amulet origin. Gold and silver and precious stones are of immense antiquity. Something to hang around your neck on a string; something to wear as a charm on your watch chain; or, falling these, something in the way of necklet, bracelet, brooch, earring—that is the ordinary ideal of the keepsake. The ideal, in short, descends from a time when clothing was scanty, personal ornament was a matter of high importance, barbaric decoration alone was known, and goods and chattels were few and simple. We seldom think of giving as a keepsake anything that can not be worn about the person.—Longman's Magazine.

A Good Suggestion for a Painter.

"I saw something very funny over our way the other day," said a resident of the North Side. "Last Sunday I was walking along near a church, when I observed just ahead of me a gentleman and a lady, evidently on their way to church. He was a tall, athletic fellow, and was smoking a good cigar, as I could tell by the flavor of it which he left behind him. It was not more than half smoked, either, and when they reached the church the lady passed up the steps, but he lingered at the door. I saw him look lovingly at the half-smoked, imported Sunday cigar, as if he were measuring its value; next he glanced all around to see if any one was looking (my face was just then in the other direction,) and then placed the smoking stump in a little niche in the church wall and disappeared.

"In about ten seconds I saw a small boy sneak from the other side of the street. He pranced up those steps like a setter dog advancing to coon. He paused, with his ears cocked and his forefoot in the air, as it were, listened a moment, looked all about, and then grabbed that cigar and walked away. Into his mouth it went, and puff, puff came the smoke. The expression of triumph and delight on that boy's face as he marched off with that cigar protruding from his mouth at an angle of about 45 degrees would make the fortune of the painter who caught it.—Chicago Herald.

Only Dangerous to Onlookers.

Mark Twain's theory that French dueling is only dangerous to onlookers proved true the other day. Two boulevardiers, M.M. Chesneau and Champignolle, were settling a quarrel with swords when an excited stranger rushed between them, crying: "For heaven's sake, stop this murderous work!" He explained that his father, an emotional octogenarian, had seen the duel from a distance, and had such a shock that he burst a blood-vessel. Not wishing to kill the old man, the adversaries tossed their swords aside and shook hands, when the stranger rushed back, exclaiming: "Continue, gentlemen, my father is better." They declined.—The Argonaut.

Facts Concerning the Suez Canal.

The Suez canal is ninety-two miles long and twenty-six feet deep, the construction having covered a period of thirteen years, and the capital employed amounted to \$85,000,000 in round numbers. Of the tonnage between the east and the west, the proportions are 104 voyages by the canal and 60 by the Cape of Good Hope.—Chicago Herald.

Nothing New Under the Sun.

In the royal arsenal at Soudan is an old Chinese eighteen-pounder bronze gun, lined with an iron tube, the native workmen having anticipated by many years the contrivance by which the artificers of Europe have almost universally introduced in some shape or other during the present generation.—Chicago Herald.

Laziest People in the World.

The inhabitants of the Laos country, in Siam, are the laziest people in the world. They are so indolent that they do little more than collect rice enough to keep them alive.

The total value of the trade of India exceeds \$250,000,000 annually.

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