

AN ABLE PENNSYLVANIAN.

CAREER OF CHAUNCEY F. BLACK.

One of the brilliant careers of Editorial Writers Who Clustered About Charles A. Dana in the Palmest Days of The New York Sun—The Man Who Helped Robert E. Pattison to Reduce the State From Republican to Democratic—Escaping Rebuke to "Uncle Joe" Cannon—The Son of America's Greatest Lawyer, and the Last Master of "Brookline," Passes to Rest.

Written for The Observer.

York and York county are mourning the death of their most distinguished son, Chauncey Forward Black, who lies in a casket at Brookline awaiting the black-plumed chariot and the slow-steading horses. It is a noble shell from which the life is flown. The mental powers of the departed were of the highest order. He was a greater man than the world appears to him. He came by his gifts honestly. He was a worthy son of a great sire, "Savoyard," who yields the most elegant pen of all the Washington correspondents, and who would be famous as Motley or Bancroft if he wrote his history of American politics in a solid volume instead of in desultory chapters for this newspaper and that, considering Jeremiah S. Black to have been the greatest of American lawyers. This is high praise, considering John Marshall, Webster, Calhoun, Everett, Edmunds, Garland and men of their stature, but it is not the estimate of an extravagant judge. In his knowledge of, and ability to apply the law, there can be no doubt that Jeremiah Black was its sovereign master. As Secretary of State and Attorney General he rendered the Democratic party high service. He was a great jurist, a great statesman and a great Christian. In middle life he went down to Philadelphia to sit at the feet of the preacher who was moving that city, and he concluded, after hearing Campbell, that the Carpenter of Nazareth was the Son of God. No man so thoroughly demolished Bob Ingersoll as did Judge Black in their famous controversy. His son, who is about to be laid in an adjoining grave in Prospect Hill Cemetery, was not so notably a national figure as the father. He hardly had the same opportunities. Jeremiah S. Black lived before Democracy had yet yielded its long lease of power. He was the ablest man of the Buchanan administration. Chauncey F. Black has lived in a day when of Republican ascendancy and his influence in politics was focused at a radiator from Harrisburg, not Washington. He early convinced himself that his father's political creed was right, and to the end of his life—he was 65 years of age—he was a vigorous champion of Jefferson's school as opposed to Hamilton's. He was fearless in advocating his principles. Yet he was so uniformly courteous in his demeanor that he had almost as many admirers among his enemies as among his friends. He could be as a David to some Jonathan, whose creed he never hesitated to denounce. He was the ticket of the Democratic party as Lieutenant Governor when the best people in the State rose up and smote the Republican machine for its corruption. He afterwards headed the Democratic ticket for Governor and reduced the tremendous normal Republican majority in the State to 43,000, and this, too, when he was pitted against Beaver, one of the purest and ablest men in Republican ranks. Afterwards occurred one of those inexplicable things in politics. Pattison and Black were nominated together as a ticket, and Pattison was elected while Black was defeated.

Mr. Black has always been a leader in the Legislature and in national conventions of his party, and as president of Democratic clubs for seven years he rendered his party in the nation distinguished services. But his best work has been as a journalist. Charles A. Dana was attracted to the virile strength of Mr. Black's style and to the solid substance of his thought, and secured him as one of the brilliant editorial coteries that made The New York Sun scintillate. In his splendid library and study, where all the walls were book shelves, first a Willow Bridge and afterwards at beautiful "Brookline," his father's old homestead, Mr. Black spent the happiest days of his life. Mr. Black confined himself to political subjects, but he received magnificent compensation—\$5,000 a year. It is said for the matter which he sent in three and four times a week to The Sun, and he only severed his connection of ten years when the paper was called on by his party in the State to don his armor.

I went out to "Brookline" to get from Mr. Black what proved to be his last public utterance. His beautiful home on the hillside, overlooking the city from the southwest, sat back in a grove of great oaks radiant in their autumn foliage. Behind the house a magnificent spring, the cool water of which is pumped through the residence, flows from a cleft in the limestone rock. The house is of brick, of simple, but solid, architecture, and of the olden style. Mr. Black showed me through and about it. He gloried in the perennial freshness of the English and Japanese Ivy which clung to the kindly old mansion with loving touch as the fair Shunnamite dame cherished the old King of Israel, because he was so venerable and so good. In the hall-way there stands a superb bust of the former master of the house done in Carrara marble, life size. I thought, as I looked at the beautifully shaped head of Jeremiah S. Black, massive and supported upon pedestal of broad manly shoulders, with Shakespearean brow, with eyes set deep in the shadow of thick eyebrows, with mouth of perfect shape and lips of delicate carving, that there must have been great beauty along with the strength of that face. The walls of hall and parlor were hung with great life-size portraits of the ancestral Blacks and of eminent men of earlier days. The mantelpieces were of marble and above them great gilt-framed mirrors. From the dining room walls hung pretty designs of curious and antique work by the women of the Black family in Revolutionary days. An old, rusting bell depended from a beam on the rear porch. No doubt in former days it had summoned the hands from work on the farm far up the slope of Webb's Hill, on the lower reaches of which the fine old homestead is built. But its clapper has long been silent and it doubtless remained in its place merely as a reminder of the old times.

What Mr. Black dictated was a reply to Speaker Cannon, who had just made a campaign speech in York. For some years the city has been seeking to secure from Congress a public building which shall be of a memorial character in honor of the Continental Congress which sat in the Continental court house here when the British, during the Revolution, held Philadelphia. Cannon had said in his speech that if the Republican candidate in this congressional district, who was a York man, was returned to Congress, he (Cannon) would use his influence to grow York the memorial building, intimating that if the Democratic candidate was elected the city could not have the building. This incensed Mr. Black and he denounced Cannon's "brilliant" speech in words that showed red-hot indignation. Mr. Black dictated the interview, talking rapidly up and down the length of his spacious library. His words, keeping pace with his observant eyes, were interesting, thinking, quick and, at the same time, clear. His memory, as the

language was complete. He never hesitated for a word and rarely substituted. He had not progressed far with his denunciation of Cannon before one understood why Dana, of The Sun, was attracted to him.

Black and Mr. Pattison could not agree well together. Black was a much able man than Pattison, but by no means equal to him as a practical politician. He could have gone to Congress from this formerly strong Democratic district, if he had deposed to "wire-pulling," or even if he had attempted to gather round him following of wire-pullers, but he would never do it. Pattison wanted a re-nomination after his first term, but Black secured the honor in the State convention and was defeated at the polls by 43,000 majority. His friends insist, and Black agreed with them, that a small majority for Pennsylvania into a Democratic victory if he had come out enthusiastically for his rival. Beaver defeated Black, and at the end of his term Pattison was again nominated for Governor and Black again for Lieutenant Governor, although the Pattison forces sought to prevent the latter's nomination. Pattison was elected and Black was defeated, and it is asserted that this curious result was because Pattison knifed Black.

When Pattison died I sent one of The Gazette's bright young men out to Brookline to ask Mr. Black for a tribute to the ex-governor's memory. Considering the rather strenuous rivalry that had existed between them, and the fact that the speaker felt that he had suffered unjustly from the deceased, the following expression of regret, while it is brief, must yet be considered generous and magnanimous: "This is not a time in which to discuss ex-governor Pattison's public services in detail. That he sought to improve political conditions in this State all Pennsylvania will probably agree. Where he failed, how and why, are questions for the political historian or reviewer. In the early part of his political career I was somewhat concerned, having been twice a candidate with him on the State ticket, and his death is to me as shocking as it was unexpected. I feel naturally a very profound sympathy for the family and many personal friends. His private life was a model of all that is correct and pure."

The Black family is one of the most remarkable in the history of American politics. The ancestors of Jeremiah S. Black and Chauncey F. Black were strong men who did the State some service in the earlier and critical days of the republic, and there is a young man in this city, the peer of any lawyer here, who bears the name of Jere S. Black, who eschews politics and who argues before a jury like his grandfather. The oldest citizens say, as they listen to his impressive pleadings: "Do you see how Jere Black runs his hand through his hair, just like the old judge used to do."

In the "Scarlet Letter" Hawthorne paints the picture of an exquisite flower that grew in the filth and mire of the jail yard and in the gloom of the prison walls. In the appalling corruption of Pennsylvania politics, a man of the pure life and clean hands of Chauncey F. Black can fill be spared.

HOWARD A. BANKS.

YORK, Pa., Dec. 5, 1904.

SUPREME COURT DECISIONS.

(Reported by Jos. L. Seavell.) BRITAIN vs. WESTALL. Appellant.—From Catawba. New trial. Where a principal gives his agent money to make a purchase and the agent purchases on credit, the principal is not bound unless he receives the goods knowing that they were purchased on credit, or subsequently ratifies the agent's act.

Declarations of an agent are not competent to prove the agency. SMITH, Appellant, vs. BRITTON.—From Montgomery. Reversed. A married woman can dispose of her land only by deed, with the written assent of her husband, and by decree or judgment of a court of competent jurisdiction.

A married woman, though a free trader, cannot, without the joinder of her husband, legally consent to have her title to land determined by an award of arbitrators.

EARNHARDT vs. CLEMENT, Appellant.—From Rowan. No error. Defendant's exception to refusal of motion to non-suit is deemed to have been waived if he introduces evidence and does not renew the motion at the close of all the evidence.

As the jury does not render a general verdict, but responds to specific issues, it is proper to refuse instructions which conclude the plaintiff is not entitled to recover.

For the doctrine of election to apply, it is essential that the testator should not only devise his own property, but that he should profess to devise property of the devisee.

Where a testator had agreed with one to bequeath her absolutely and unconditionally certain shares of bank stock in consideration of services rendered by her, but instead bequeathed the stock in trust for the beneficiary's life, she is not estopped by receiving the dividends, from suing on her contract to recover the stock.

A person may make a valid agreement to convey real estate to another property in a certain way, but such contracts, especially when attempted to be established by parol, are regarded with suspicion and will be sustained only when there is the strongest evidence that they were founded on valuable consideration. In an action on such a contract the trial judge is prohibited by Section 418 of The Code from expressing an opinion as to the weight of the evidence.

TROXLER vs. BUILDING CO., Appellant.—From Alamance. Affirmed. In an action to compel a wife to convey by plaintiff through misrepresentation as to the existence of a corporation which would erect a building on the property conveyed, and thereby enhance the value of plaintiff's adjoining property, it is competent to suggest the plaintiff's allegation of fraud, to introduce evidence of fraud in procuring the charter of the corporation, the purpose of such evidence not being to invalidate the charter.

Equity will cancel a deed procured by the grantee's fraudulent representation to erect a building on the land, and thus enhance the value of the grantor's adjoining property, where it appeared that such representation was the consideration moving the grantor to make the deed, and that the grantee never intended to comply with the promise to erect the building.

In such case, the judgment should merely direct a re-conveyance of the property by the grantor to the grantee, or a part of the purchase price received, less damages assessed by the jury, and should not direct a sale of the property.

LABBITER vs. S. A. L. RAILWAY, Appellant.—From Wake. No error. Exception to refusal of motion to non-suit is waived by defendant's introduction of evidence and not renewing the motion at the close of all the evidence.

In an action against a railroad company for damages for alleged negligence of defendant in killing plaintiff's intestate by backing a train on him in an incorporated town, evidence is admissible to show that greater care must be exercised while moving cars in a large town than in a small one.

Chapter 56, Private Acts 1897, renders void an implied contract by a railroad conductor to assume all risks incident to the company's rule that a flagman need not be stationed on the front car of a backing train, when a train is being made up or shifted in the yard.

Refusal to instruct the jury that a railroad company was not guilty of negligence as to its conductor in failing to station a flagman on the front car of a backing train, when a train is being made up or shifted in the yard, is not error, and it was proper in such case to submit to the jury the question whether defendant was negligent, and if negligent, whether, notwithstanding plaintiff's contributory negligence, the defendant's negligence was the proximate cause of intestate's death.

TILLERY vs. LAND.—From Nash. Three appeals.

Specific performance of a contract for the sale of land by one who owns a part thereof can be enforced only as to the interest of such part owner, and the interests of other owners for whom he may have been authorized to contract.

In such case, the vendee, while he cannot be made to accept a deed for only a portion of the land, may compel the vendor to convey his portion.

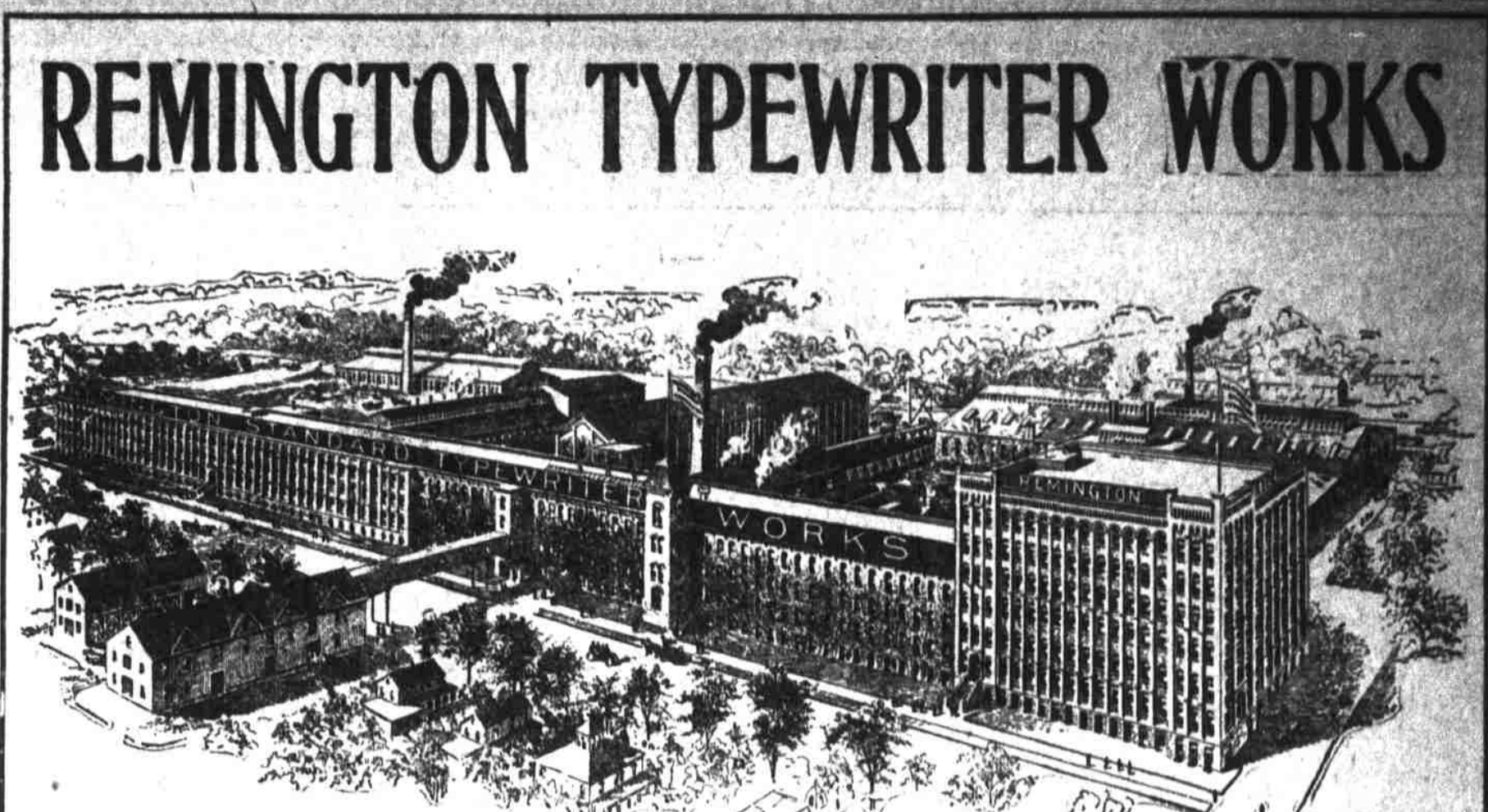
But where it appeared that one owning a part of land contracted for the sale of his interest only on condition of a sale by the other owners, specific performance will not be enforced.

Specific performance rests in the discretion of the court, and will not be denied by reason of mere technicalities, but will be granted with a view to effectuate the intent of the parties.

Specific performance cannot be had against an infant, though an infant's contract for the sale of land may be enforced, if ratified after his majority.

A married woman's land can be conveyed under an executory contract, only by complying with the provisions of Section 1554 of The Code, which provides for due proof and acknowledgment as to husband and wife and privy examination of wife, etc.

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When the surviving son died the discussion became bitter and eventually in a lawsuit, the heirs of the soldier who came home disputing the rights of the soldier who was resting under the shadow of the Kennesaw. In the course of the litigation it became necessary for the defendants to show that the soldier who gave his life to help Sherman into Atlanta is really dead. It must be shown beyond all doubt that the form resting in the grave at Marietta is the remains of the man who once lived in Vermont, and to do that there is a possibility that the grave made forty years ago may have to be opened. As I understand, the soldier resting in the cemetery at Marietta was slightly deformed in one hand, and it is that deformity which the plaintiff's attorney will establish to the satisfaction of the court of the Green Mountain State the rights of his direct descendants to their part of the estate."

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