form of policy," an agent can waive the terms of the policy longer waive the terms of the private "word of mouth" and that no waiver consent of the agent is valid or bind-upon his company unless it is endorsupon his company unless it is endorsupon his company unless it is endorsupon his policy. The case ed in writing on the policy. The case went up to the Supreme Court from Asheville, and the Atlanta Home Insuressrs. Tillett & Guthrie, attorneys of this city. The opinion is as follows: Supreme Court of North Carolina, February term, 1908. No. 516, Buncombe.

Black, Appellant, vs. The Atlanta Home Insurance Company.

Defendant insurance company through agents, at Asheville, on December rance, against loss or damage fire, to the amount of \$1,900, on certain property fully described therein. The polwas of the standard form, set out in in Revision (1965), Section 4759-4760, and contained the following provisions; entire policy, unless otherwise proided by agreement endorsed hereon or hereto, shall be void if the insured ow has or shall hereafter make or procure any other contract of insurance, valid or not, on property covered in whole, or in part, by this policy." The policy contains this further clause: This policy is made and accepted to the stipulations and conditions, together with such other provisions, agreements or conditions as may be endorsed hereon or added hereto, and no officer, agent or other representative of this company shall have power to waive any provision or condition of this policy except such as by the terms of this policy may the subject of agreement endorsed hereon or added hereto, and as to such provisions and conditions no officer, agent or representative shall have such power er be deemed or held to have walvsuch provisions or conditions, unless such waiver, if any, shall be written upon or attached hereto, nor shall any privilege or permission affecting the insurthis policy exist or be claimed by the insured, unless so written or attached." All of which is contained in "standard policy" prescribed in the atatute. On January 4th, 1906, another policy was issued by the German Fire Inegrance Company, on said property, for \$500. On January 9th, 1906, the property sovered by the policies was destroyed by fire. It was conceded that no consent by defendant was endorsed on the policy of December 29th, 1965, to the issuance of the policy of January 4th, 1906. The property, as found by the jury, was worth \$3,274. The following, among other issues, was submitted to the jury: "Was there a waiver by the defendant, of the condition in the policy, as to the additional insurance issued by the German Insurance Plaintiff introduced parol evidence for the purpose of showing walver, by defendant, of the condition in regard to the additional insurance. Honor, upon the conclusion of the evidence, charged the jury that there was no evidence that the defendant waived the provision in the policy, in regard to takout additional insurance in the German Insurance Company, and instructed to answer the issue "No." Plaintiff dant and plaintiff duly excepted and

excepted. Judgment was renedered for lon Weaver and H. B. Carter for Tillett & Guthrie for defendant. Connor. J. The principle question presented is whether parol evidence is admissible, to show a waiver of the condition avoiding the policy, by reason of taking the additional insurance January The condition, expressed in the policy, that other insurance taken upon the policy, without the assent of the inwould render the policy void, is valid, and, unless waived, will be en-forced. Sugg vs. Insurance Company, 58 Upon a careful review of the entire rec-tinuance, Termination.—A partnership for N. C. 143. The language of the contract is explicit, and incapable of misunder- be affirmed. standing, leaving no room for construcconfronted with the express provision in the face of the policy, the form of which is prescribed by the statute, that no officer, agent or representative of the company, shall have power to waive any provision or condition, except such as, by the terms of the agreement, is "endorsed hereon or added hereto," and as to these, no officer, agent, etc., shall have such a such as the policy of the form making, though the plaintiff was upon the land with his saw mill at the time of the purchase, engaged in the time of the purchase, engaged in the form making. The prevented from making, though the prevented from making. The prevented from making, though the prevented from making, though the prevented from making. The prevented from making the prevented from making, though the prevented from making. The prevented from making the prevented from making the prevented from making. The prevented from making the prevented from making the prevented from making the prevented from making. The prevented from making the prevent no officer, agent, etc., shall have such power or deemed or be held to have waived such condition unless the waiver, If any, shall be "written upon or attached hereto;" nor shall any privilege or aission exist or be claimed by the insured, unless so written or attached. There can be no controversy regarding the meaning of these words. They are inserted in the policy, not by the comute. To fail to give them force and effeet, is to nullify the statute. They are not intended to restrict the powers, eximplied, of general or local agents, but to prescribe an invariable rule 4. Evidence. Actionable Wrong, Facts. the warning of the conductor for pasof evidence, by which their conduct must Mere Calling Conduct Unlawful.—When sengers to "keep their seats," etc., and policies. In many cases, by reason of the obscure language, manner and place, of insertion and unfairness to the insured. held them unressonable and in-The conduct and language of agents together with the extent of their ower, rendered the rights and duties of the company and the insured uncertain and insecure. The courts for the prevention of fraud and injustice, construed the evidence in the most favorable light the insured, and, to prevent forfeitures dence, or if different minds can draw difsonduct and language of agents. This is trial judge to submit the case to the apparent from the decided cases in our jury. own and the reports of other courts. To 2. Dead Bodies, Unlawful Mutilation, avoid these controversies, frequently reous Bilgation, the Legislatures, of this and his death, she has, nothing else appearcy," and forbade the use of any other, the next of kin, for the unlawful mutila Legidature of this State, in 1899, enacted a statute codifying the insurance band law and adopting the "standard policy" 2. I escribing the size of type in which it r form of policy, the company and its Revisal. The courts of other States, which this form of policy is prescrib-have uniformly held that its terms provisions are binding upon the com-and the insured. The question prey and the insured. The question preted upon this appeal was dided in
nian vs. Insurance Company, I.N. Y.
Adrews, J., saging: "No principle
tetter estitled in the law, nor is there
founded on more obvious justice,
in that it a person, dealing with an
in, knows that he is acting under a
seribed and limited authority, and his
is outside of and transcends the audity conferred, the principal is not
not and it is immaterial whether the
t in a general or special one, beter a principal may limit the author-

SUPREME COURT OPINIONS

The Supreme Court of North Carolina has just rendered a decision which The Supreme Court of North Carolina has just rendered a decision which The Supreme Court of North Carolina has just rendered a decision which The Supreme Court of North Carolina has just rendered a decision which The Supreme Court of North Carolina has just rendered a decision which The Supreme Court of North Carolina has just rendered a decision which The Supreme Court in the suprementation of the public of

use compulsory upon insurance companies, marks a most important and useful advance in legislation, relating to contracts of insurance." Moore vs. H. F. Insurance Company, 141 N. Y. 219. In Bourgeois vs. National Insurance Company, 25 Wis. 606, Winslow, J., referring the dead body of plaintiff's intestate was permitted by the defendant to remain upo the enactment requiring the use of the standard policy, says: "The act is broad and sweeping in its terms and scope. It brings order out of chaos. Prior to its passage, there were as many contracts as there were companies of the policies issued by the various insurance companies were almost infinite in nun new clauses and conditions were being

constantly inserted, generally ingenious ly worded and obscurely inserted. To eet this condition, the act under con-29th, 1905, issued to plaintiff its policy of sideration was passed. That it is a long step in the right direction, cannot be doubted. \* \* \* The condition here broken was one of the conditions of the standard policy. It is claimed that it was waived net in printing or writing, but by mere word of mouth. Can this be successfully maintained? If so, then this part of the law is at once emasculated." In Parker vs. Rochester German Insurance Company, 162 Mass. 479, discussing an alleged waiver of a condition in a standard policy. adopted by the General Assembly, it is said: "There is nothing to show that the agent had any authority to vary the standard form; but if they had, it would seem probable that they could only do so by inserting provisions or attaching slips in the manner prescribed by the statute." In Anderson vs. Insurance Company. 28 for Burial, Duty of Railroas.—The de-L. R. A. (Minn.) 609, while the case was fendant railroad company owed it as a

disposed of upon other grounds, the chief justice states clearly the principle which should govern the courts, in dealing with sert the provisions and conditions that are contained in the standard policy, and the binding effect of them, the act is conclusive; for it would be absurd to say that, while the same statute compels the use of a particular condition, the parties it, but it may be negatory." "The condi-tions of the standard policy cannot be waived, except as provided therein and written or printed on the face of the policy." 13 Am. & Eng. Enc. 223, citing a large number of cases. The decisions appear to be uniform upon the point. In Assurance Company vs. Building Association, 183 U. S. 368, an exhaustive description, with a review of the authorities, is made by Mr. Justice Shiros. If the enforcement of this provision works injustice, the Legislature may change the law. As it is written, it is our province to enforce it. We have avoided any dis-

cussion of the extent and character of the authority of the agents of defendant, or what conduct will or will not operate as a waiver. We confine our decision to the language of the statutory policy. holding, with his honor, that there was a breach of the condition, in regard to subtracted between the parties, as prescribed a matter of public policy, restricted the counterclaim. freedom of contract and compelled the may be made in parol, the statute will "quick sands of the law," we nullify the statute, we not only make a new and different contract for the parties, but make the law of none effect. The notice that the plaintiff intended to get other insurance in the future, is not notice of existing insurance at the time the policy radical. acting as the agent of the plaintiff. This agreement,

standing, leaving no room for construction. Assuming, for the purpose of the
argument, that the agent who issued the
policy, comes within the definition of a
general agent, with power to bind the
company, in respect to the policy issued
by him, as held in Grubbs vs. Insurance
Company, 198 N. C. 472, the plaintiff is
confronted with the express provision in within his legal rights, and cannot be

Same.-An executory contract to saw timber into lumber is in the nature of an employment, and carries with it no in- the defendant is not liable in damages for terest in the timber, such as a covenant to run with the land. Therefore, for a night under such circumstances, whereby timber into lumber is in the nature of an breach of such contract, an action for damages will not lie against a vendee who bought with knowledge, but only against the vendor.

3. Injunctions, Timber, Agents and Employes.-An injunction against S, his agents and employes, from cutting certain timber, is operative against B, who there is evidence that the plaintiff was claimed the right to cut it under a connegligent in his voluntarily riding upon tract with S, upon whose title the contract was made.

proven to bind the company. Prior to the recovery in an action depends upon in consequence he stepped from the train the enactinent of the statute, much con-troversy arose as to the reasonableness terference with plaintiff's legal rights, it of conditions or provisions inserted in will have to be established. The mere calling the defendant's conduct unlawful his charge upon the liabilities arising does not so establish it.

Hattie C. Kyles vs. Southern Railway

1. Judgment, Non-suit, Evidence, How Considered, Questions for Jury .- In consideration of the question as of non-suit upon the evidence, the courts will accept provisions most strongly against to the plaintiff, and if there is any eviindustrious to find waivers, in the terent conclusions, it is the duty of the

iting in long and, to the insured, ruin- is living with her husband at the time of States, enacted the "standard pol- ing, a right of action, superior to that of tion of the remains of her deceased hus-

the dead body of plaintiff's intestate was permitted by the defendant to remain upon or near its track, and to be mutilated by a number of its trains running over it for a number of hours, the defense that such was not the fault of the railroad company, but of the employes, is not available, when the employes, who par-ticipated therein, were retained in its em-

ployment. Such was a ratification.
6. Dead Bodies, Mutilation, Damages,
Mental Anguish.—When the rights of one legally entitled to the custody of a dead body are violated by mutilation thereof, the party injured may, in an action for damages, recover for the mental suffering caused thereby, which is the proximate and natural consekuences of the wrongful

7. Railroads, Dead Bodies, Mental Anguish, Measure of Damages, Evidence, Incompetent, Hearing of Death.—In awarding damages against defendant railroad company for the wrongful mutilation of the dead body of plaintiff's intestate, the jury should be cautioned to carefully dissociate the grief thereby caused from that occasioned to the widow upon learning of the death of the husband, when the action is for damages occasioned by the mutilation alone. 8. Railroads, Dead Bodies, Preparation

duty to gather the body, and its fragments together, and prepare the same for burial , when the plaintiff's intestate was killed by one of its trains, and a neglithe statutory standard policy. "But in killed by one of its trains, and a negli-respect to the power of the parties to ingent failure to do so was an infringment upon the legal rights of the widow, for which an action for damages would lie. 9. Same, Seeing the Remains.-In an action for damages arising from wrongful mutilation of a dead body, the plaintiff, the widow, cannot recover for cannot or shall not bind themselves by grief occasioned by seeing the mutilated

A. P. Gilbert and W. R. Kuker vs. Howard Automatic Machine Co. et al. 1. Partnership, Prospective Patent Money Advanced, Work Done, Condition Precedent.-Under a contract between the plaintiffs and defendants that in consideration of monies to be advanced by some and work to be done by others, upon a machine invented by one of them and proposed to be patented, and, in the event of its being patentable, the article to be manufactured or sold, with a specified division of profits, a partner ship was created as an executed agreement, and a stipulation that the plaintiffs were to erect or construct the machine, and make certain advancements, was not in the nature of a condition precedent or concurrent, but an obligation for breach of sequent insurance, and that the waiver which, if not properly explained, the can be shown only in the manner consible, either as an item of charge in takby the statute. The Legislature has, as ing a partnership account, or by way of

2. Partnership, Termination, At Will, parties to contract in the exact language Purpose of Patent, Sale of Patent, prescribed. While a contract of insurance Breach of Contract, Damages.—When it appears that a partnership had been is, parol contract will be construed to be for a standard policy. If listening to the suggestion of "hard cases," said to be could not either partner; and this being established between the plaintiffs and defendants, the latter, without just cause and lawful excuse, and in breach of the partnership agreement, having profitably disposed of the device, and refused to account, an The distinction is marked and actionable wrong is done for which plain-We do not think that it can be said that the agent of the company was profits as established by the partnershi

ord, we find no error. The judgment must the accomplishment of certain definite objects, but not expressly specifying any time for its continuance, is not a partpership at will within the meaning of the general rule, but is to be regarded as a partnership to continue until its purpose s accomplished, or the impracticability thereof is demonstrated.

D. D. Wagner vs. Atlantic Coast Line Railroad Company,

1. Railroads, Negligence, Passenger, Invitation to Alight, Platform, Warnings, Contributory Negligence.-It is prima facie negligence for a passenger to voluntarily ride on the platform of a rapidly moving train; and while he has the right to presume that the next stop made after a station is called is at that station, the injury was incurred, when, by being on the platform, he was prevented from hearing the conductor call out that the station had not yet been reached, and for the passengers to keep their seats.

2. Same, Evidence, Instructions.—When the platform of defendant's train, and on that occount he could not have heard from the fact that the station had previously been called, and the right of plaintiff to act upon the assumption that

the next stop was his destination. 3. Same.-An instruction based upon the evidence as to defendant's having placed the notices in the car warning passengers from riding on the platform, Revisal, 2628, which leaves out an independent defense, that by so doing the plaintiff was prevented from hearing a

4 Evidence, Burden of Proof, Admissions, Instructions, Issues,-While the burden of the issue is upon the defendant setting up contributory negligence as a defense, it was error in the court below to so instruct the jury when plaintiff's evidence establishes negligence on his band.

2. Dead Bodies, Quasi Property, Wrongmate cause slone, when there is evidence

the company that it was awarened tion of a coroner is ineffectual.

5. Railroads, Dead Bodies, Mutilation, goods; 2. In the absence of tender of goods; 2. In the absence of tender of judgment by defendant, Revisal 500, the plaintiff should recover their costs of the

Jalie H. Cox, Admrx., vs. High Point, R.

A. and S. Rallroad Co.
1. Railroads, Negligence, Evidence,
Scintilla, Question for Jury.—When the facts are established in an action to recover damages for the negligent killing by the defendant railroad company of plaintiff's intestate, that the car upon which plaintiff's intestate was employed was derailed owing to the unsound condition of the tract, together with the other circumstantial evidence that he was thereon at the time in ques-tion, that he was well and left home for the usual purpose of the trip and returned home on the afternoon of the same day sick, nervous and looking as if something had happened; and when, from the testimony of his attending physician, it appeared that immediately thereafter had such symptoms and bruises as to in-dicate the conditions from which his death afterwards resulted, it was error in the court below to sustain defendant's motion for judgment as of non-suit upon the evidence, it being more than a scintilla, and sufficient to take the case to

nal Rennion Confederate Veter-ins, Birmingham, Ala., June 9-11, Via Seaboard, Official Route Mecklenburg

For the above occasion the Sea-board has been selected as the of-ficial route of the Mecklenburg Camp ficial route of the Mecklenburg Camp they invite all veterans, their ston-Salem, and at Statesville for Winand they invite all veterans, their wives and Jamilies to join them on this trip. They will leave Charlotte on the night of June 8th. The rates from Charlotte for the round trip will be \$8.95; tickets on sale June 6th, 7th and 8th, good to return leaving Birmingham as late as midles and points North. Fullman drawing from sleepers to Naw York and Richmond. Day coaches to Washington. Dining car service. mation regarding the trip, call on or address

JAMES KER, JR., C. P. A. Scaboard, Charlotte, N. C.

ANNUAL REUNION CONFEDER. E VETERANS, BIRMING-HAM, ALA., JUNE 9TH-11TH, 1908.

The Southern Railway announces following round-trip rates for Durham .... 11.95 and local points. Gastonia.... ..... ..... Raleigh..... Goldsboro.

Dates of sale June 6th, 7th and 8th; good returning leave Birming-ham midnight June 20th. For further information apply to any agent Southern Railway.

R. L. VERNON, Traveling Passenger Agent.

FIRST GRAND EXCURSION CHAR-LOTTE TO WILMINGTON, N. C., WEDNESDAY 17TH, 1908, VIA SEA-BOARD AIR LINE RY.

BOARD AIR LINE RY.

The Seaboard will operate its first grand excursion on June 17th, leaving Charlotte 8:20 a. m., arriving Wilmington about 3:30 p. m.; leaving Wilmington Friday 9 a. m. Fare for the round trip 33. This will give you two afternoons and nights at the Beach, which is more attractive this season than ever before, all should avail themselves of this opportunity to take an outling at so small a cost. For particulars see small bills. Train connecting with this train at Monroe will leave Chester, S. C., 8 a. m., June 17th. Fare for the round trip from Chester will be \$3. For further information call on or address C. H. GATTIS, T. P. A., Raleigh, N. C.

JAMES KER, JR., C. P. A., Charlotte, N. C.

REDUCED RATES VIA SEABOARD ACCOUNT SPECIAL OCCASIONS.

other points.

Pullman berth rate from Raleigh
\$6.00; Durham \$6.00; Greensboro
\$5.50; Salisbury \$5.00; Asheville

# AND PETTEE MACHINE SHOPS COTTON MACHINERY

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## Southern Railway

N. B.-Following schedule figures published only as information, and are not guaranteed. April 12th, 1868:

1:N a. m., No. 30, daily, for Vashington and points North. Pullman drawing room sleepers to New York. Day coaches Washington. 3:20 a. m., No. 25, daily, ror Columbia, Savannah and Jacksonville. Pusiman drawing room sleepers to Auguste and Jacksonville. Day coaches to Jackson-

\$:30 a. m., No. 8, daily, for Richmon 5.33 a. m., No. 44, dally, for Washington and points North. Day coaches Charlotte to Washington. 6:30 a. m., No. 36, dally, for Columbia and local points.

10:50 a. m., No. 23, daily, for Winston-Salem, Roknoke and local points.
11:55 a. m., No. 27, daily, New York and New Orleans Limited. Drawing room sleeping cars. Observation and club cars, Foom sleeper, New Orleans. Drawing Pullman train. Dining car service. 12:00 p. m., No. 11 della New York to New Orleans. 12:05 p. m., No. 11, daily, for Atlanta and local points, 4:00 p. m., No. 46, daily, for Greens

boro and local points.

4:35 p. m., No. 41, daily, except Junday, for Seneca and local points. 4:45 p. m., No. 27, daily, for Columbia

Approximately low rates from other er. Charlotte to Washington, and Charlotte to Richmond.

9:25 p. m., No. 38, daily, New York and New Orleans Limited for Washington and points North. Drawing room sleepers, observation and club cars to New York. Dining car service. Solid Pullman train. 9:35 p. m., No. 35, daily, for Atlants and points South. Pullman drawing room sleepers New York to New Orleans, Rich-mond to Birmingham, Charlotte to At-CHARN. C.,
IA SEAits first
h, leaving Wilmington to Mile office, No. II South Tryon street.
C. H. ACKERT
Vice Pres. and Gen. Mgt.
Washington, D. C.
B. H. HARDWICK, P. T. M.,
Washington, D. C.
B. H. HARDWICK, P. T. M.,
Washington, D. C.
R. L. VERNON, T. P. A.,
Charlotte, N. C.

# **SEABOARD**

These arrivals and departures as well as the time and connection with other companies, are given only as information and are not guaraviered.

Direct line to the principal cities North, East, South and Southwest. Schedule taking effect April 12th, 1908, subject to

ACCOUNT SPECIAL OCCASIONS.
BIRMINGHAM, ALA.—Account of Confederate Veterans' Reunion, June 2th, 11th, tickets will be sold June 6th, 7th and 8th, with final return limit June 20th, round trip rates from Charlotte 19.90. Durham \$11.96. Maxton 19.55. Raleigh \$12.05. Wadesbore 39.60. Sheby \$2.30. Lincointon \$2.90. Weldon \$12.56. Wilmington \$12.50. Stop overs will be allowed at Athens. Atlanta, Cedartown, and Boyden Springs, and low round trip side trips will be sold to various points of interest in the victual trip side trips will be sold to various points of interest in the victual trip side trips will be announced later.

LENVER, COL.—Account of Democratic National Convention July 1th, selling dates, rates, stop over privileges will be announced later. Excellent double daily service to Charlotte, leave Raleigh to Charlotte, leave Raleigh to Charlotte, leave Raleigh to Charlotte, leave Raleigh to Charlotte, will be run on night train of June 23rd. Write undersigned for reservations.

CHICAGO, ILL.—Account National Republican Convention, rates will be announced later, drect double daily service via Seaboard either via Atlanta to rwashington, D. C. For further information regarding rates, schedules, etc., apply to service via Seaboard either via Atlanta to rwashington, D. C. For further information regarding rates, schedules, etc., apply to connecting with 15 or Raleigh, No. 13. 150 a. m., daily, from points No. 13. 150 a. m., daily, from points No. 13. 150 a. m., daily, from points No. 14. daily, 150 p. m., for Monroe, and New York. With 31 at Monroe for Raleigh, Portsmouth, and No. 15. daily, from points No. 15. daily, 150 p. m., for Monroe, and No. 25. daily, 150 p. m., for Monroe, and No. 25. daily, 150 p. m., for Monroe, and No. 25. daily, 150 p. m., for Monroe, and No. 25. daily, 150 p. m., for Monroe, and No. 25. daily, 150 p. m., for Monroe, and No. 25. daily, 150 p. m., for Monroe, and No. 25. daily, 150 p. m., for Monroe, and No. 25. daily, 150 p. m., for Monroe, and No. 25. daily, 150 p. m., for Monroe,

JAMES RER. JR.

C. P. A. Charlotte, N. C.

Charlotte, N. C., May 22d, 1908.

National Republican Convention,
Chicago, Ill. June 16th, 1908.

Southern Railway announces the following round-trip rates for the above occasion:

Goldsboro. \$27.10

Selma. \$26.45

Raleigh. \$25.55

Raleigh. \$25.55

Durham. \$24.70

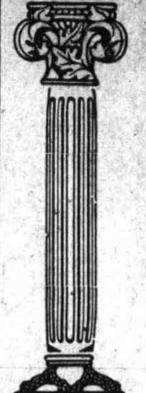
Greensboro. \$24.70

NORFOLK & WESTERN RAILWAY \$6.00; Durham \$6.00; Greensboro \$5.50; Salisbury \$5.00; Asheville \$4.50.

Tickets will be sold June 12th to 16th, inclusive, good to leave Chicago returning not later than June 20th, 1908.

The Southern Rallway has been selected as the official route for the delegates, via Asheville, Knoxville and Harriman Junction, in connection with the C. H. & D. from Cincinnati to Chicago. Through Pullman car to be handled on train 111, leaving Raleigh at 2 a. m. Saturday, June 13th. This train leaves Greensboro at \$125 a.m. same date. Those desiring Pullman reservation will please notify me.

R. L. VERNON, T. P. A. Charlotte, N. C.



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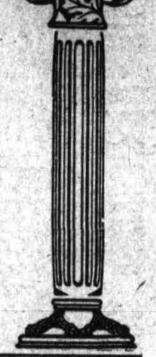
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work of one-half century. For catalogue address REV. J. R. BRIDGES, President.



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150 PRIVATE BATHS.

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