

SUPREME COURT OPINIONS

Table Book Lumber Company, et al. vs. Andrew Branch, et al. Evidence, Deeds and Conveyances, Deeds from Deceased Persons, Ante-Litem Motam.

When to establish a disputed corner of land a deed from a deceased person is offered in evidence as a declaration tending to establish it, it is incompetent if the deceased was not a disinterested person at the time he made the deed or if it was not made in his lifetime.

Column vs. Gaylor, et al. vs. Sam Gaylor and Wife. Deeds and Conveyances, Trusts, Delivery, Intent, Parol Evidence, Parties.

When a deed recites a valuable consideration, it is presumed that the grantor intended to pass an absolute estate. The fact that the deed is in fee simple and has full covenants of warranty and warranty in other respects gives clear indication that an absolute estate was intended to pass.

State vs. Thad Cale. Pleas, Former Conviction, Nature of Action, "Not Guilty" Judgment of Action, Agreement of Pleas, Acquittal. The plea of former conviction is not treated in many respects as one involving the substantial question of guilt or innocence.

State vs. Dunnington. Intoxicating Liquors, Sale Prohibited, Town Ordinance, Non-Intoxicants, Charter Powers. A town ordinance prohibiting the sale of a drink for which a license is required is not void if the State statute is invalid when the power to enact such an ordinance is not conferred by its charter.

H. C. Bridges vs. L. L. Staton, et al. Corporations, Stockholders, Pooling Stock, Agreement Void. An agreement for the purpose of pooling the stock of a corporation to control or apportion the directors is void, and no rights can be acquired thereunder by the parties.

Wills, Lost or Destroyed, Probate, Common Form, Jurisdiction. The clerk of the Superior Court has jurisdiction to take probate of a will which has been destroyed by the testator or destroyed by him when not having the animo revocandi, and an action in the nature of a bill in equity to set up the will is unnecessary.

Wills, Lost or Destroyed, Probate, Common Form, Jurisdiction. The clerk of the Superior Court has jurisdiction to take probate of a will which has been destroyed by the testator or destroyed by him when not having the animo revocandi, and an action in the nature of a bill in equity to set up the will is unnecessary.

Pale Delicate Women and Girls. The Old Standard GROVE'S TASTELESS CHILL TONIC, drives out malaria and restores the system. For grown people and children, 50c.

As to whether laches can be imputed without notice of probate in common form, Quares. A reasonable time which will bar the right of him or her at law to file a caveat to a will probated in common form has not been settled by the court.

Wills, Lost or Destroyed, Probate, Common Form, Proof Required, Propounder, Burden of Proof. Upon the filing of a caveat to a will probated in common form, the propounder must prove the will per testes in solemn form, and the burden is upon him to show: (1) The formal execution as prescribed by statute.

Moile M. Willis vs. J. G. White and Company. Railroads, Construction, Improper Drainage, Independent Contractor, Negligence. When one who has contracted to construct a road bed and track for a railroad company according to plans furnished by the civil engineer of the company, enters upon the lands of the owner for that purpose, both he and the railroad company are responsible in damages for his negligent failure to use all reasonable efforts to protect the land and crops growing thereon from injury caused by the construction.

Railroads, Construction, Improper Drainage, Negligence, Measure of Damages. The measure of damages to land by "scouring and washing" caused by improper drainage of a road bed constructed by a railroad company on its right of way thereon, is the difference in the value of the land with the road bed as it is now, and such value had it been skillfully and properly constructed.

Railroads, Construction, Improper Drainage, Negligence, Independent Contractor, Completion of Work, Liability. An independent contractor who has constructed a road bed and track for a railroad company on its right of way in accordance with the plans and specifications of the civil engineer of the company, is not liable to the owner of the land for damages to the land from improper drainage which accrued after the completion of the work and delivery to the railroad company.

Intoxicating Liquors, Sale Prohibited, Town Ordinance, Non-Intoxicants, Charter Powers. A town ordinance prohibiting the sale of a drink for which a license is required is not void if the State statute is invalid when the power to enact such an ordinance is not conferred by its charter.

Police Powers, Cities and Towns, Municipal Corporations, Charter Powers. Municipal corporations can only exercise such police powers as are granted by their charters, and all fair reasonable doubts as to whether such powers have been conferred are resolved by the courts against their being exercised.

Corporations, Stockholders, Pooling Stock, Agreement to Vote, Proxy, Limitations of Power. A written agreement assigning stock in a corporation with authority to vote, reserving to the assignors, who retain possession, the right to all dividends, amounts only to a proxy (Revised, Sec. 118), and after the expiration of three years, it cannot be voted, Revised, Sec. 118.

Corporations, Stockholders, Voting Cumulative, Officers, Adjournment. The right to cumulative voting by Revised, Sec. 231 (5) is with the proviso that the minority stockholders openly announce that they will exercise such rights, when it appears that one person or control more than one-fourth of the capital stock and it cannot be exercised when only one proposition is voted upon or on a motion to adjourn.

Corporations, Stockholders, Illegal Voting, Adjournment, Majority Vote, No Quorum. When a motion to adjourn a stockholders' meeting has been carried, and a sufficient number have withdrawn to reduce the number of those present below a majority of all the stock issued and outstanding, Revised, Sec. 118, an election of officers cannot be lawfully held thereafter at that meeting though the adjournment was carried by an illegal vote.

Voling, Adjournment, Status of Meeting, Result, Power of Court. The court can only declare the true result of a vote by the stockholders as to some measure or the election of officers, because of the illegal admission or rejection of certain votes; but as to an adjourned meeting to be held, stockholders not represented at the first meeting, and hence the legal status, as to the adjourned meeting cannot be established until that meeting and the vote taken, and an injunction cannot issue against certain stockholders voting at such meeting.

Corporations, Stockholders, Meeting, Adjournment, Order by Court. A mandamus sought under the provisions of Revised, Sec. 118 and 119, will not issue to compel the reconvening of the stockholders for the election of officers, because of the illegal admission or rejection of certain votes; but as to an adjourned meeting to be held, stockholders not represented at the first meeting, and hence the legal status, as to the adjourned meeting cannot be established until that meeting and the vote taken, and an injunction cannot issue against certain stockholders voting at such meeting.

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Atlantic Coast Line Railroad vs. Atlantic Coast Line Railroad. Damages to Land by "Scouring and Washing" Caused by Improper Drainage of a Road Bed Constructed by a Railroad Company on its Right of Way Thereon, is the Difference in the Value of the Land with the Road Bed as it is Now, and such Value had it been Skillfully and Properly Constructed.

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South Carolina Physician Called Down For Soliciting Business Through Newspaper Advertisement—Gracefully Abandons His Scheme. Special to The Observer. Yorkville, S. C., March 29.—An advertisement, occupying about a three-column space, announcing that specialists representing the Cleveland Institute of Medicine and Surgery, legally chartered and incorporated at Cleveland, O., would visit Yorkville and be at the Shandon Hotel to-day, for one day only, appeared in the Yorkville Enquirer of March 23 and 24. It invited surgeons from diseases of the nervous system, lungs, kidney, stomach, and kindred troubles, and not under the care of a regular practicing physician, to call and have a free diagnosis made of their ailments. From 9 a. m. to 3 p. m. were mentioned as office hours. At an early hour men and women commenced to arrive and by 7 o'clock not less than fifty persons who had come for the sole purpose of consulting the representatives of the institute, were in town.

In order to comply with the law made and provided, one of the physicians, Dr. William B. Smith, of Dillon, S. C., visited the office of the clerk of the court, presented what he considered ample evidence that he was Dr. William B. Smith, of Dillon, S. C., tendered 25 cents, the prescribed fee, and asked to be registered as a regularly licensed physician of this State and entitled to practice in York County. The clerk stated that it would be necessary for the applicant to be identified by a physician of the town. Dr. Smith suggested Dr. R. A. Bratton, and was advised that Dr. Bratton's identification would be satisfactory. Dr. Bratton was sent for and on arrival identified Dr. Smith as being the gentleman he advised. The fact that he had been guilty of unethical conduct in that his coming had been announced in a newspaper advertisement, contrary to the usages of the profession, and that if he undertook to carry out the plans set forth in the advertisement his license to practice in the State would undoubtedly be revoked by the State medical board.

Dr. Smith surrendered without firing a gun, and upon the fact that the physician who accompanied him here was not licensed by this but by New York State, he could do nothing except in connection with Dr. Smith.

Two Bessemer City Young Men Locked Up at Gaffney, S. C., on Serious Charge. Special to The Observer. Gaffney, S. C., March 28.—Constable J. H. Allison, of Blacksburg, brought two young men named Fletcher Tate and Roland Tate to Gaffney this morning and committed them to jail. They are charged with breaking into the store of Fowler Bros. at Blacksburg on Sunday morning about 3 o'clock. Chief Duncan's attention was attracted by a man who was in the front of the store and upon investigation found a man inside helping himself to the goods in the store. He had laid aside a suit of clothes and some other articles which he had stolen. They had effected entrance by breaking a glass on the front of the building. Both young men are neat and clean looking and appear to be about 20 years of age. They claim to be from Bessemer City, N. C.

Department Official Inspects Gaffney, S. C., Dairies. Special to The Observer. Gaffney, S. C., March 28.—Mr. R. H. Mason, of the United States Department of Agriculture, who is located at Clemson College, spent Saturday at the Hillview Dairies with Mr. C. Biggerstaff. Mr. Mason visited the dairies throughout the day and advised how to conduct them on the most scientific and economical lines, makes suggestions as to proper food, ventilation of buildings, etc. Mr. Biggerstaff says that he obtained a lot of valuable information from the visit and of this official and would advise others in his line of business to confer with him.

Arrested For Cruelty to Birds. Greenville, S. C., March 29.—A warrant was sworn out to-day for the arrest of the members of the firm of H. H. Anderson, of this city, one of the leading clothing and dry goods stores of the city. The firm is charged with mutilating birds. At the opening of a big sale on Saturday chickens, which were tied to tickets calling for suits of clothes, were thrown from the top of the store to the street, about forty feet below. In the scramble for the fowls they were horribly mutilated. It is alleged, the warrant was issued for the arrest of the firm for the prevention of cruelty to animals. The case was compromised.

Missionary Workers Visited Thomasville, Ga. Special to The Observer. Thomasville, Ga., March 29.—Friday about three hundred ladies who had been attending the Baptist State missionary meeting at High Point came to Thomasville and spent the day visiting the Thomasville Baptist Orphanage. The whole town welcomed them and appreciated their visit. Here's hoping that they will every one come again and stay longer next time.

Refuses to Discuss Insurance Commissioner's Letter. Fayetteville, March 29.—When asked to-day for a statement in regard to the recent letter of Insurance Commissioner McManis, of South Carolina, in which he makes severe strictures upon Messrs. C. J. Cooper, manager, and E. W. Lacy, vice president and actuary of the Southern Life Insurance Company, Mr. Cooper replied that he would answer the letter in the proper manner at the proper time.

Winston Boy Stabs Another. Winston-Salem, March 29.—In a midnight fight at the home of a stabbed Moorey Langford, another white boy about the same age, in the right temple. The wound is an ugly one and Langford may die. Flynn is in jail to await results. Langford was carried to the hospital.

Children are great lovers of gingerbread, and grown folks, too, if it is of the rich "melt-in-the-mouth" kind. The following recipe by the famous Mrs. Mary J. Lincoln, is commended to those who delight in this delicacy. Mix two cups flour, one-half level teaspoon salt, one level teaspoon soda, one level tablespoon ginger, stir in one cup molasses, two tablespoons softened butter, Bake in shallow pan. For decoration, mix in layers with whipped cream, favor with lemon.

His Conduct Unethical. Special to The Observer. Yorkville, S. C., March 29.—An advertisement, occupying about a three-column space, announcing that specialists representing the Cleveland Institute of Medicine and Surgery, legally chartered and incorporated at Cleveland, O., would visit Yorkville and be at the Shandon Hotel to-day, for one day only, appeared in the Yorkville Enquirer of March 23 and 24. It invited surgeons from diseases of the nervous system, lungs, kidney, stomach, and kindred troubles, and not under the care of a regular practicing physician, to call and have a free diagnosis made of their ailments. From 9 a. m. to 3 p. m. were mentioned as office hours. At an early hour men and women commenced to arrive and by 7 o'clock not less than fifty persons who had come for the sole purpose of consulting the representatives of the institute, were in town.

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Queen Quality SHOE. PUMPS are popular but "Queen Quality" pumps are the most popular. The new ankle strap patterns fit like a glove and will not slip at the heel. It's a pump that you actually walk in, not walk out of. Other styles just as well fitting at \$2.50, \$3.00 and \$3.50. BELK BROS. Sole Agents.

PRUDENCE says buy to-day a bottle of Goway's Preparation and be prepared for croup, colds, coughs, pneumonia, pains, soreness in throat, lungs, muscles. External, penetrates, gives instant relief. At drugstores, 25c to \$1.00. CENTURY PAINT IS GOOD PAINT. Torrence Paint Co. 10 NORTH TRYON.

BEER. We will ship you Fresh Beer Direct from Brewery. An all bottle of 25 cents per doz. on all bottles returned. BEERS. Rhine, 4 doz. 6 doz. 10 doz. 15 doz. 20 doz. 25 doz. 30 doz. 35 doz. 40 doz. 45 doz. 50 doz. TEMPERANCE BEVERAGES. HIGHLY NUTRITIOUS. 4 doz. 6 doz. 10 doz. Rhine, \$3.50 \$5.00 \$9.00. Scotch, 3.50 5.00 9.00. J. & E. MAHONEY, Brewers and Distillers, PORTSMOUTH, VA.

RISE AND BREAST. And many other painful and distressing ailments from which most mothers suffer, can be avoided by using Mother's Friend. This remedy is a God-send to expectant mothers, carrying them through the critical ordeal with safety. No woman who uses Mother's Friend need fear the suffering incident to birth; for it robs the ordeal of its dread and insures safety to life of mother and child, leaving her in a condition more favorable to speedy recovery. The child is also healthy, strong and good natured. Our book containing valuable information will be sent free by writing to BRADFIELD REGULATOR CO. Atlanta, Ga.

If there is something wrong with your Stomach YOUR STOMACH NEEDS KODOL. Stomach sickness, such as sour stomach, belching, heartburn, etc., is caused by improperly digested food—that meaning indigestion. And there isn't anything any better for indigestion than Kodol. Kodol readily prevents any digestive disorders, by promptly digesting all food eaten—no matter what kind, nor when, nor where. And when food is thus digested for the stomach—relieving it of its work for a time—the stomach speedily regains healthy, natural strength. Then it can do its own work—until you abuse it again. Of course, it is much better to keep the stomach healthy; but if you have not done this—and there is something wrong with your stomach—try Kodol. The results will surprise you. Our Guarantee. Get a dollar bottle of Kodol. If you are not benefited—the druggist will at once return your money. Don't hesitate—buy Kodol. The dollar bottle contains 24 times as much as the 50c bottle. Kodol is prepared in the laboratories of E. C. DeWitt & Co., Chicago.

ALL WOOL SUITS MADE TO MEASURE OR DEPOSIT BACK. \$15. GOOD FIT AND UNION WORK GUARANTEED. UNITED WOOLEN MILLS 305 N. Tryon St., Charlotte, N. C.

The General Fire Extinguisher Company. Has removed its city office from No. 216-218 South College street to Rooms 807-809 Realty Building.