DECISIONS OF THE SUPREME COURT

Right of Remainderman to Possession of Land and Rents On Death of Life Tenant

(WALTER CLARK, JR.)

Justice Allen writes an interesting opinion in Hays vs Wrenn as to the right of remainderman to take possession of land after death of life tenant, which had been leased by such life tenant.

Action For Rent of Land Leased by Life Tenant.

Hays vs Wrenn is an action to recover rent. It appears that Mrs. Callie Hayes owned a farm for her life and rented the place to the defendants, Wrenn, for a period of five years for $100 a year. This lease was made in 1912. Mrs. Hays died in May, 1913, and the farm has become the property of Esther Hayes, the plaintiff. The defendants, Wrenn, rented the farm to sub-tenants for one-fourth of the crop raised and received about $500 for their rent in 1913. The plaintiff, Esther Hayes, after the death of Mrs. Hayes, demanded possession of the place and also that the Wrenns pay her the proportionate part of the $500 received by them, as rent from May to November.

Justice Allen writes the opinion for the court and states that at common law, the person taking property after a life tenant is not entitled to possession in cases like the above until the end of the current year and is not entitled to receive any part f the rent. However, by our statute, Rev. sec. 1990, it is provided that such remainderman can not take possession until the end of the current year but shall receive the proportionate part of the rent for the period from the death of the life tenant to the end of the current year.

In this case, the land being leased by Mrs. Hayes, life tenant at $100 a year, the plaintiff remainderman, was entitled to the proportionate part of this $100 for the period from May (the death of Mrs. Hayes) to the end of the current year in November, and was entitled to possession of the land in November. The Wrenns received about $500 for the year 1913 by sub-renting but the plaintiff is not entitled to a proportionate of this amount as the lease under which the plaintiff must sue, was between Mrs. Hayes, life tenant, and the Wrenns. There was no error in the judgment of $45.50 for the plaintiff as her proportionate part of the rent.

Mental Anguish Suit.

Hedrick vs W. U. Tel. Co. is a mental anguish suit in which plaintiff recovers $250 damages. Justice Allen writes the opinion for the Supreme court finding no error in the trial.

The following issues were submitted: 1. Did the defendant negligently fail to transmit and deliver the message, as alleged in the complaint? 2. What damages, if any, has the plaintiff sustained on account of mental anguish caused by the negligence of the defendant?

Justice Allen states that the following issues have been approved by the Supreme court. 1. Was the defendant guilty of negligence, as alleged in the complaint? 2. What damage, if any, has the plaintiff thereby sustained on account of mental anguish? Or what damage, if any, has the plaintiff sustained on account of mental anguish caused by such negligence?"

In the issues as submitted, "the first issue presents no question except negligence, considered separate from the result." "It follows therefore, as the question of proximate cause was not in the first issue but in the second, that the exceptions to the charge on the first issue, permitting the jury to answer it in the affirmative without finding proximate cause, cannot be sustained. His Honor would have been justified in charging that the defendant was negligent upon the admitted facts. Nor does there appear to have been any real controversy as to proximate cause in the facts admitted."

He further says as to the charge of the trial judge that there is a presumption of mental anguish from close relationship. "The charge as to the presumption of mental anguish arising from close relationship is sustained by Cashion vs Tel. Co. 123 N. C. 274, which holds that the presumption extends to near relatives of kindred blood." The fourth head note to Sherrill vs. Tel. Co. 155 N. C. 250, which says that this presumption does not exist when the relationship is that of aunt and neice, is erroneous and not supported by the opinion which decides that the presumption did not prevent the introduction of other evidence of affection existing between the parties.

Construction of a Timber Deed.

Gilbert vs. Shingle Co. is an action to recover for the wrongful cutting of timber. The trial judge being of opinion that under the deed, the defendant had twenty years to cut the timber, excluded evidence of plaintiff that defendant had only ten years to cut in. The appeal is dismissed by the Supreme court in an opinion by Justice Hoke.

The deed in question conveyed all timber of the dimension of ten inches from the ground, or which shall attain such size any time with in the period of ten years from the date of this instrument: * * * "Together with the perpetual right of way in, to, through and over the above mentioned tract or parcel of land at any and all times during the term of twenty years, for men, teams, etc."

Justice Hoke states, "It is the accepted rule of construction in this and other written contracts that the intent of the parties as embodied in the entire instrument should prevail, and that each and every part shall be given effect if it can be done by fair and reasonable intendment, and that, in ascertaining this intent, resort should be had, primarily, to the language they have employed and where this language expresses plainly, clearly and distinctly the meaning of the parties, it must be given effect by the courts and other means of interpretations are not permissible." That in this case, the 10 year limitation is descriptive as to the size of the timber conveyed and specifying the time within which the measure must be had. And the 20 year limitation is designed and intended to fix the time within which the timber sold must be cut and removed.

He further states, that in deference to the trial judge, the court has passed upon the questions presented but the appeal was premature. "Unless otherwise provided by statute, an appeal only lies from a final judgment or one in its nature final and, under our decisions, a non suit may not be taken to test an adverse ruling of a judge, leaving issuable matter presented and undetermined in the court below." Appeal dismissed

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GRAHAM CRACKERS

A food for every day. Crisp, delicious and strengthening. Fresh baked and fresh delivered. 10 cents.

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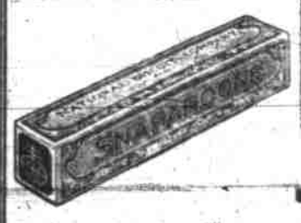
A delightful new biscuit, with a rich and delicious cocoanut flavor. Crisp and always fresh. 10 cents.



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NO ALUM IN ROYAL BAKING POWDER

COURT MUST CONVICT NOT DEFENDANT HIMSELF

Judge Harris Speaks Out From His Heart; Chase Case Postponed Until Today; Speeder In Court.

In the future police court defendants without the service of lawyers may expect better treatment than is generally the case in such courts and they will have to be convicted by the court rather than by themselves. Judge Harris yesterday spoke a few of his thoughts along this line and was firm in saying he wanted defendants convicted by the court. It's not fair for defendants to convict themselves," he said.

It is very often the case that the police fail to make out a good case against defendants until they, ignorant of court proceedings, take the stand with a view of saving themselves and instead tell something to convict them. If they had attorneys it would be different.

Yesterday's session of police court developed several interesting cases and as usual mighty tales of "mean liquor." The case against Rodney Chase, one of the young men arrested in connection with the larceny of a check and check book from Dr. J. R. Rogers, was postponed until Saturday. Chase is charged with larceny and receiving, but it is almost certain that he will be sent to court as a witness. During a conversation between Judge Harris and Col. J. C. L. Harris, the latter being attorney for Chase, young Herbert Locke announced that he wanted a warrant for false pretense. "False pretense nothing," said Judge Harris. "I think the police did a very good deed when they arrested you. "They deserve a big reward."

Frank Parish, who says that a negro who works at a stable sold him some "mighty poison" liquor, was taxed with the costs for drunkenness. Before final disposition an officer was told to help him find the negro seller.

Rufus Y. McAden, for speeding on Hillsboro street, was fined $2 and costs. Motorcycle Officer Mangum testified that his speedometer showed 20 miles an hour and that McAden passed him. It was evidence enough.

Because he allowed his bull dog to run at large on the streets without a muzzle, Jack Edwards, negro, was made to pay $1 as a reminder to keep him at home in the future.

G. H. Tatum, an employe of the Royal and Borden Furniture Company, was taxed with the costs for doing electrical work without reporting it for inspection. Inspector John W. Mangum testified that an examination of the work showed it was not up to standard.

John Freeman, negro, was taxed with the costs, for allowing stone to drop from his wagon on the street pavement. He violated a city ordinance.

ACCEPTS PASTORATE

Rev. T. A. Tatum Will Make His Home at Oxford.

Rev. T. A. Tatum left yesterday for Oxford to fill his appointment at Knotts Grove church. He will move his family to Oxford next week, having accepted the pastorate of four strong country churches near that town. They are Knotts Grove, Beulah, Stovall and Corinth. Mr. Tatum has made a number of friends during his sojourn in Raleigh during the past few weeks. He came here October 22 from Fort Worth, Texas, where he studied at the Southwestern Theological Seminary.

FAITHFUL FIRE HORSES NO LONGER NEEDED

Bill and Frank Will Never Again Carry Wagon to a Fire; Both Have Fine Record.

Bill and Frank, the two beautiful black horses of the old Rescue Fire Company, have done their last duty with the Raleigh fire department. These valuable horses, among the best ever trained by the local firemen, a few days ago stepped slowly from their comfortable stalls, passed their wagon and may never again hear that familiar tap of the fire house bell. Bill has been transferred to the water department and will live at Lake Raleigh the permanent storage basin, and Frank wil be used in the sanitary department.

Bill was in service for twelve years and there has never been a more faithful and hardworking fire horse. He has been to nine firemen's tournaments in the State and in 1908 at Asheville lowered the world's record in the hose wagon race, making the time in 28 seconds. This record has been lowered twice since. Frank, the running mate to Bill, has seen only five years of service. In their dash to fires in this city these two handsome horses always attracted attention and people in the business district would always leave their stores when the bell sounded to see Bill and Frank fairly "flying" with that Rescue wagon.

With the departure of Bill and Frank the Raleigh fire department now has but two horses in service, but within the next few days these will be sold. When the new auto pumper is placed in service the department will not have a horse. Everything will be auto driven. Even the steamer and hook and ladder truck will be pulled by motive pouwer.

CHARTERS GRANTED

The Secretary of State yesterday issued the following charters:

The Budd-Piper Roofing Company, of Durham, with authorized capital stock of $5,000. The incorporators are W. P. Budd, R. E. Piper and J. A. Piper.

The Ayden Free Will Baptist Printing Company, of Ayden, with authorized capital stock of $10,000. The purpose of the corporation is to print The Free Will Baptist. Among the incorporators are A. T. Dawson, J. H. Newcome and R. R. Dean.

The Continental Automobile League, of Winston-Salem, with authorized capital stock of $100,000. The incorporators are Thos. S. Rucker, Turner Farish and W. R. Moody.

REAL ESTATE TRANSFERS

Deeds were recorded yesterday in the office of the Register of Deeds of Wake county as follows:

O. G. Glenn and others to H. B. Glenn, 30 acres in Bartons Creek township, for $1 and other considerations.

J. D. Farmer to M. T. Olive, 66 acres, for $600.

J. A. Vick to B. P. Finch, 82 acres near Wakefield for $820.

T. A. Vick to Richard High 3 tracts near Wakefield, for $1,839.

T. A. Vick to Bryant Pace 47 acres near Wakefield for $705.

A. L. Sears and wife to Raleigh Real Estate and Trust Company, lot on West Lenoir street.

EVENING OF PLEASURE.

Young Durham Boy Entertains Good Crowd at Tabernacle Church

An entertainment out of the ordinary was given at the Tabernacle Baptist church Thursday evening by Mr. Wallace Lee, a young Durham boy who is making good as entertainer. Mr. Lee's variety of acts included ventriloquism, cartooning, magic and impersonation of a "country boy." This last act was his best and received encores several times. His magic tricks were new and pleased.

BROKE ONE OF HIPS.

Miss Minnie Pugh Has Painful Fall on Salisbury Street.

In getting out of an automobile late Thursday Miss Minnie Pugh, an employe of Edwards and Broughton Company, slipped and fell on the concrete paving, breaking one of her hips. She was removed to her home and later carried to Rex Hospital. Yesterday she was reported as getting along as well as could be expected.

A Solid Comfort Boot

This Hub-Mark Rubber Boot is a solid comfort—a genuine protection. Although a tough boot that will withstand severest service, it is shapely and well fitting.

Thousands of men are wearing this boot and will accept no other. Boys, too,—by the thousands—are wearing it.

Also made in all lengths.

A Famous Product of the Boston Rubber Shoe Co

HUB-MARK RUBBERS

Look For HUB This Trade Mark

Look for the Hub-Mark on all kinds and styles of Rubber Footwear for Men, Women, Boys and Girls.

Note this:—You can rely on anything you buy from dealers who sell Hub-Mark Rubber Footwear They are dependable merchants.

Boston Rubber Shoe Company Malden, Mass.

VIRGINIA CITIES RATE COMPLAINT

North Carolina Corporation Commission Will Look After Interest of Shippers of State

The Corporation Commission of this city has received a copy of the complaint filed with the Interstate Commerce Commission by the Corporation Commission of the Commonwealth of Virginia against certain rates enjoyed in North Carolina.

The complaint is made against local rates from Virginia cities to all points in this State to which reductions were made on through rates from the west in the adjustments of through rates which went into effect in June. It is noted that they specifically except rates to New Bern and Wilmington

The claim is made that these rates give to merchants, manufacturers, jobbers, wholesalers and shippers, located in Louisville, Ky., and Cincinnati, O., an undue and unreasonable preference and advantage and subject merchants, manufacturers, jobbers, wholesales and shippers located in Virginia cities and the localities of said Virginia cities to undue and unreasonable prejudice and disadvantage in violation of Section 3 of the act to regulate commerce and acts amendatory thereof and supplementary thereto.

The North Carolina Corporation Commission will intervene when the matter comes up for trial and will take such steps as are deemed necessary to protect the interests of North Carolina merchants, manufacturers, wholesalers and shippers.

MOVING PICTURES AT STATE PRISON

Warden Sale Installs Machine and Will Give Entertainments Once a Week

At the State prison last night the first exhibition of moving pictures was given to the prisoners, many of whom saw for the first time life portraits on the canvas, snapped from their subjects as they walked in the flesh.

The State has installed a machine and gave it the first tryout last night. The machine worked perfectly after a snap or two of the pictures. Three reels requiring slightly more than an hour in the presentation were shown, the same pictures that will be presented to one of the local picture houses today and Monday.

Capt. Thomas P. Sale, warden of the prison, decided weeks ago to try the picture machine. He thought a night every week would give his prisoners as much enjoyment as anything that might be done for them. The best manufacturers sent their men here and gave the experiment a thorough trial. The first night was more than a hit. It was a tremendous success.

The lecture on the pictures as given by Col. Fred A. Olds, who gave the history of the experiment that led to life-pictures in motion. As many of the prisoners do not read easily, Colonel Olds called out their meaning and illustrated them by amusing sallies that instructed the prisoners in the comic significance of the pictures.

The first was a story of world events, peace conferences, war preparations and this fell understandingly upon the men and women. The German occupation of Brussels, the marching, resting and eating had occasional bits of humor that enlivens the soldier's life. When a German ate hot soup and turned to make a face, the laughter of the prisoners who never saw a picture of the kind was uproarious. They thought the soldiers were looking into the faces of the prisoners last night.

One picture showed the Britons in uniform sitting on the grass and playing cards. It was the one touch that made the whole prison heart kin. They all knew that. When one player dropped a card, another threw one hard on it and so on around, the black prisoners couldn't contain themselves. They appreciated the love pictures, the runaway marriage appealing with particular force to them.

The picture that showed the old washerwoman taking captive the fraud palmist almost broke up the assembly. It was the hit with the black folks. They never saw a blacker one or one more representative of the race from which they have come.

The warden has the very best machine that he would and will give pictures on each Wednesday night. The same circuit that furnishes them to local playhouses will supply the prison authorities. The pictures are new and clear.

Colonel Olds held a hand primary last night and asked how many had never seen moving pictures before. Ten pairs of hands went up. It developed afterward that many of these had in mind the old magic lantern slides that delighted their fathers and mothers. Warden Sale has found something that makes prison life much less dreary than it once was.

ROTARY MOVING PICTURES

Will Be Shown Free of Charge at the Grand Theatre Next Monday Afternoon.

The Rotary moving pictures will be shown at the Grand Theatre Monday afternoon after the regular performance, 5 to 6 o'clock, and there will be no charge for admittance.

The performance will be complimentary to the citizens of Raleigh by the Raleigh Rotary Club.

The films are highly interesting.

AYCOCK SOCIETY

Mr. Earle Betts Wins Honors as Best Speaker.

The high school last night was the scene of a very spirited meeting of the Aycock Literary Society.

A declamation by Alderman Merritt was the first thing on the program and this was followed by a debate on the query: Resolved, that immigration is detrimental to the United States. The debaters were Louis Hellig for the affirmative and Earle Betts for the negative. The negative won and Mr. Betts was adjudged the best speaker.

A feature of the meeting was a talk made by Mr. Phillips upon Immigration. He visited Ellis Island last summer and was able to give first hand information about the landing of immigrants.

Aviator Killed By Fall.

(By the Associated Press.)

Chesterfield, S. C., Nov. 13.—Frank J. Terrell, an aviator, was instantly killed here today while making a flight at a county fair. His aeroplane collapsed at a height of 500 feet and plunged to the ground. Terrell's home has not been ascertained.

WEEK CAMPAIGN ON TUBERCULOSIS

Governor Craig Issues Proclamation Commending Observance

The last week in November has been selected as tuberculosis week and the last Sunday in November as Tuberculosis Sunday. A letter was issued yesterday from the Sanatorium for the Treatment of Tuberculosis through the State Board of Health to all the ministers of the State asking that they hold special services on that day and that they preach on the occasion a special sermon on "The Church's Place in the Prevention and Alleviation of Physical Suffering and its Consequences."

It is suggested making the plan of crusade work in North Carolina practical by calling special attention to the State Sanatorium for the Treatment of Tuberculosis—its success and needs—and 2nd, to the sale of Red Cross Seals as a means of raising funds to fight this disease. It is further suggested that local committees be organized to take up the work of the sale of the seals and that the work be especially presented to Baracas and Philatheas as an open opportunity for service. As 75 per cent of the receipts of the seals is to be used by the local committee, it is urged that church societies seize this opportunity to help needy tubercular persons in their communities.

Governor's Proclamation.

Along with the letter goes the proclamation of Governor Craig:

"Tuberculosis is the most terrible disease in the world. The medical profession and leading scientists of all nations are contending against this enemy of mankind. All the people should lend their earnest co-operation. I hope that Sunday, November 29th, will be a day in which the people may become more alive to the ravages which this disease is making, and stimulate them to renewed effort for its prevention.

"(Signed) LOCKE CRAIG."

At the same time the Chief Executive commends the effort of the people of the State in behalf of the measures for the battle against tuberculosis, he says. "Perhaps the most important single thing the people of our State have done in the fight is the raising of $10,000 last year by the sale of Red Cross Seals. This is something which all the people can take part. I commend it to their thoughtful consideration and trust that we may more than double the amount during the approaching holiday season."

Sanatorium and the Seals.

Says the letter to the ministers of the State, in part:

"We have ninety patients at the sanatorium, with applications for a hundred on file. The patients are gaining a gross amount of 125 pounds per week, some of them gain as much as five pounds per week. We need an additional building and additional equipment in the way of electric lights, heat, power, laundry, etc. The Bureau of Tuberculosis desires an appropriation that will enable it to furnish sputum cups and printed information in regard to tuberculosis free to every registered case of tuberculosis.

"Red Cross Christmas Seals are sold for one cent each and make a nice Christmas sticker for Christmas packages, Christmas greetings and all correspondence. They are sold through Red Cross Seal Committees, and three-fourths of the receipts from sales are kept by the local committee to be used in any way the committee may think wise for the cause of tuberculosis. For example: In sending a patient to the Sanatorium who was not able to pay, in furnishing food and medicine to an indigent tubercular patient, in employing a visiting tubercular nurse for part or all the time, educational work, such as lectures, distribution of literature, stereopticon exhibitions, etc. The one-fourth remaining is used by the State Committee and the National Association in the fight against tuberculosis; so that every cent received for the sale of Red Cross Seals is used in the fight against tuberculosis."

WANTED IN WAKE COUNTY

Man Wanted For False Pretense is Arrested in Emporia, Virginia; Deputy Sheriff Harward Goes For Him

Armed with requisition papers, Deputy Sheriff Harward has gone to Emporia, Va., to bring back to Wake county B. B. Carter, who was arrested in that town a few days ago upon request of the Wake authorities. Carter is wanted on the charge of false pretense, the charge resulting from Carter obtaining money from W. S. Wilson, of Zebulon, by pretending to own some mules. It is said Carter is also wanted in Franklin county for a like offense.

COL. JOHN NICHOLS EIGHTY

United States Commissioner Still Hale and Hearty Will Receive His Friends at Office Today.

Col. John Nichols, United States Commissioner, is 80 years old today. Time has been good to the Colonel and he gets about as actively as many men of 50. He is still vigorous in the discharge of his duties.

Today from 10 a. m. until 2 p. m. Col. Nichols will receive his friends and etceteras at his office in the Federal building.

CALOMEL SELDOM SOLD HERE NOW

Nasty drug salivates; makes you sick and you lose a day's work.

Every druggist in town—your druggist and everybody's druggist has noticed a great falling off in the sale of calomel. They all give the same reason. Dodson's Liver Tone is taking its place.

"Calomel is dangerous and people know it, while Dodson's Liver Tone is perfectly safe and gives better results," said a prominent local druggist. Dodson's Liver Tone is personally guaranteed by every druggist who sells it. A large bottle costs 50 cents, and if it fails to give easy relief in every case of liver sluggishness and constipation, you have only to ask for your money back.

Dodson's Liver Tone is a pleasant-tasting, purely vegetable remedy, harmless to both children and adults. Take a spoonful at night and wake up feeling fine; no biliousness, sick headache, acid stomach or constipated bowels. It doesn't gripe or cause inconvenience all the next day like violent calomel. Take a dose of calome today and tomorrow you will feel weak, sick and nauseated. Don't lose a day's work! Take Dodson's Liver Tone instead and feel fine, full of vigor and ambition.

Take It Now

Rexall Olive Oil Emulsion With Hypophosphites.

A pleasant tasting Food Tonic, combining the tonic properties of the Hypophosphites with the Nutritive properties of the Finest Quality of Olive Oil.

For wasting diseases, pulmonary affections, coughs, colds, and during convalescence.

Money back if not satisfied.

KING-CROWELL DRUG CO.

ROTARY DINNER; WHAT'S TO HAPPEN

Members Guessing As to What Novel Stunts Committee Will Pull Off

What are the Rotarians going to pull off at their dinner at the Warborough Hotel next Monday evening is the question being asked since the announcement that this live bunch have a novel entertainment and the arrangement committee was keeping the matter a dead secret.

Every Actarian, except the members of the committee, are on edge as to just what will happen. The club is noted for doing things out of the ordinary, and so they know that something worth while is in store.

A reporter of The News and Observer tried to prize some part of the secret from a member of the committee, but he was as mum as an oyster as to the secret part of the affair. "Nut," he said, "it will be worth the money. Nothing like it ever before in Raleigh."

It will be a swell evening affair, yet they say no dress suits will be worn. Now, what do you think of that? Mystery, yes, they are covering the whole thing is mystery.

There will be able speakers there, but there will be no speechmaking. Now, what do on think of that? An elaborate feast, plenty of good after-dinner speakers, and not a speech.

Ah! part of the secret; there will be something to keep all speechless.

Governor Craig is to be there, the mayors of the towns visited on the two hosting trips of the club in a wide radius of Raleigh, and the wives of thesem ayors will be guests of the club. Mayor and Mrs. Johnson, of this city, will also be guests at the dinner. And not one of these political spell-binders will have a chance to speak.

The arrangement committee have matters in full swing, and the prospects are that it will be mostly largely attended dinner the club has ever held.

Using a long breadknife as a weapon, Miss Alysi Shaheen forced Thomas Gordon to surrender a bottle of liquor he was attempting to sell to an Indian witness at the Federal court and held him prisoner until officers arrived and placed him under arrest.

Liggett & Myers COUPONS and Tags Redeemed

Full value given for Coupons and Tags from Liggett & Myers Cigarettes and Tobaccos. Big stock of their premiums on hand. Come and see them. Special welcome to ladies.

TUCKER BUILDING PHARMACY

THE SAVING WAY

Smart dressing doesn't mean extravagance in either style or expenditure.

Knowing how and where to buy is the secret.

You'll save the most and look the best in

BOONE'S DE LUXE CLOTHES

Made by Hart-Schaffner & Marx, Society Brand and Stein Bloch and others.

"Come and See Is All We Ask"

Large shipment of Balmacaans in today, brought at a price, great values. For quick selling as long as they last ..... $10.00, $12.50, and $15.00

DON'T MISS THIS

Mackinaws ..... $5.00 to $12.50

Mackinaws, bigger than weather Auto Robes $9.00

Edwin Clapp, Florsheim and Barry Shoes

Save yourself time and annoyance, make today economy day by seeing the values at Boone's.

C. R. BOONE

DE LUXE CLOTHIER