

PUBLIC INTEREST
MELNOR PAPER

In Case of Conflict of Convenience, People Come First Says Court

IMPORTANT CASE DECIDED
Damages Allowable For Obstruction of Highways; Always a Way, Chief Justice Clark Points Out, For Corporation To Avoid Conflict. Will Construed

(WALTER CLARK, JR.) Probably the most important case decided by the Supreme Court this week was Tate vs. Ry., regarding railway crossing. The opinion is by Chief Justice Clark. The opinion of Justice Walker constrains a will in Ham vs. Ham is also of interest.

Tate vs. R. Ry. is an action to enjoin and also to recover damages for the blocking of a crossing by defendant's train near Norlina, N. C. It appears that Creed & Co. sold 60 acres of land at Norlina to the railroad and 2 tracts near this land. The plaintiffs, Tate & Co., had a contract with Creed & Co., for hauling timber from a 2400 acre tract on south side of the railroad. The planning mill of the railroad was on the north side of railroad and the timber was hauled across the railroad tracks at a place called "A" Street in the complaint. This was not a public crossing but the railroad authorities had been used over since the railroad was built. The jury found for the plaintiff and assessed damages at \$1500 and an injunction was issued forbidding the railroad to block such crossing by leaving box cars or other obstructions on the crossing, but not prohibiting the railroad from shifting cars thereon to the extent allowed by law.

Chief Justice Clark states: "Damages are allowable for obstruction of highways, Sloss vs. Johnson, (Ala.) 3 L. R. A. (N. S.) 228 and notes." The plaintiff objected to the evidence of the existence of right to cross railroad at point complained of. Chief Justice Clark states: "The testimony shows that there was a road at that point in 1838 when the Raleigh & Gaston R. R. was first constructed (of defendant) was built and that it has been in use ever since and that during all this time, it has been a material and necessary crossing." Further in 1907 when plaintiff was negotiating with Creed & Co. for hauling the logs and buying half interest in the land, the railroad was written to regarding the crossing and its general manager and vice-president, C. H. Hill, acknowledged that there was a public crossing at that point which the defendant could not and would not attempt to obstruct or abolish. The duty of railroads to so construct their roads as not to interfere with use of any other road in private way is fully discussed with citation of authorities in R. R. vs. Goldboro 155 N. C. 540, affirmed by Supreme Court U. S. 222 U. S. 541.

Again he states, "Besides the defendant and its predecessors had maintained that crossing for 77 years, including two years after the deed to it by Creed & Co. of the 60 acres in January 1912, which was accepted after the defendant had expressed its knowledge of the existence of the crossing and that it had no right to abolish it and no intention to do so."

"Even if this had been a case where the railroad had been freshly constructed, it was required in crossing established roads or ways to so construct its works as not to impede the passage or transportation of persons or property along the same," Rev. 2569. And also to "make and keep in constant repair crossings to any plantation road thereon. Rev. 2571."

"The word 'ways' is above cited Rev. 2569 is construed to embrace recognized and customarily used roads and ways less than highways," Gotroth vs. R. R. 144 N. C. 511. Chief Justice Clark states further: "There is no contention that the correspondence between Creed & Co. and the defendant prior to the conveyance of the 60 acres created this right of way. The deed embraced the contract between the parties, and the preliminary treaty was merged into it. But such preliminary correspondence was competent to show, if it had been necessary, that the defendant was aware of the crossing and expressed its intention not to interfere with it. Certainly the defendant and its predecessors having recognized the existence of the crossing, they should have been held to be bound to maintain it."

Various Forms Of Headache
"It is necessary to understand the causes of the headache. Dr. J. W. Hooper of Stockton, Ala. continues: 'Persons cannot even begin the treatment of a headache without knowing what the headache is and what the cause gives rise to it, and we must remember that headache is to be treated according to the cause. It is a very common ailment and is usually intended to counteract the cause which produces the headache. There is no reason to believe that it is intended to relieve the pain until the cause of the trouble has been removed. To suppress this purpose, Salicylate Tablets will be found a most convenient and satisfactory remedy. One tablet every one to three hours gives comfort and relief in the most severe cases of headache, neuralgia and particularly the headache of women.'

HORLOCK'S
The Original
MALTED MILK

Unless you say "HORLOCK'S" you may get a substitute.

The existence of this crossing for 77 years can not now be heard to its credit when the public convenience and the convenience of corporation (which derives its life from public authority) or any other enterprise, conflict, the convenience of the sovereign, the people, who create corporations and support all business, is paramount. A railroad company itself is chartered for the public convenience, the right to a profit therefrom being incidental.

In conclusion, Chief Justice Clark states: "There is no excuse for such conflict not only when, as here, the road or way existed before the railroad was built, but on any occasion for the corporation can always avoid any conflict by putting in a subway crossing either for itself or for the use of the public. The Corporation Commission has long had authority to abolish grade crossings. Rev. 1937 (19). When such crossing becomes dangerous or inconvenient to the public, it is the operation of the railroad in its own right. The causality of the railroad is in subordination to the rights of the public. Instead of taking from the people the use of their roads and ways, the railroad company should avoid interference at their own expense. No error."

Construction of A WILL
Ham vs. Ham, in an action for recovery of land, involving the construction of a will, the cause of the plaintiff, Tate & Co., was on the north side of railroad and the timber was hauled across the railroad tracks at a place called "A" Street in the complaint. This was not a public crossing but the railroad authorities had been used over since the railroad was built.

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LESS FERTILIZER
GREAT DEEP
A SICK MAN
BEST SESSION YET

Thirty-seven Per Cent Reduction From Same Period of Last Year

The farmers of North Carolina have bought thirty-seven per cent less fertilizer this year than they had up to the same time last year, Commissioner of Agriculture W. A. Graham announced yesterday. This deduction is made from figures of sales at hand from over the State since December 1, the beginning of the record year. Commissioner Graham states also that, from data ascertained in his department, he would estimate the reduction of cotton acreage in the State at twenty per cent.

Of course the lettuce of the spring might be holding down the fertilizer sales. However, at the same date last year fifty per cent of the sales had been made. The saving of spring oats has been considerably hindered, too, this year.

Winter wheat and oats are reported as suffering considerably from the effects of the late cold weather, and indications point to large sales of sulfate of soda as a spring covering to facilitate the backward growth. Nitrate of soda will also likely be largely used during the growing month of corn and cotton, owing to the high price of fertilizers containing potash.

Contract to Construct Drainage Canal Awarded
Bond Issue of \$90,000 For Wayne County Drainage District No. 5 Contract Also Goes to Greensboro Firm

The Commissioners of Wayne County Drainage District Number Two (Nabun's Swamp) met today for the purpose of opening sealed bids for the contract to construct drainage canals in Nabun's and Slough Swamps. There were bidders present from Ohio, Michigan, Indiana, Illinois, Missouri and four from North Carolina. The contract was awarded to Thompson & Mosley, of Greensboro, N. C., who also agreed to purchase about 4,000 acres of the most fertile land which will be reclaimed by this drainage proposition. The contractors will begin the construction of this work immediately. The gentlemen from Chicago, Ohio, Missouri and Indiana were very much impressed with the city of Goldsboro, and with the farming lands of this section. One of them says that he has seen all over the United States and that Wayne County looks better to him than any county that he has seen except Los Angeles, California. These gentlemen highly praised Wayne county courthouse, and are especially impressed with the progressive appearance of Goldsboro.

The landowners are just beginning to appreciate the value of draining the wet and swampy lands in this section, and are indicating more drainage districts now being organized in Wayne county. The farmers have seen that the landowners of Wayne County Drainage District Number One, Bear Creek and Hood Swamps, are now making from 50 to 85 bushels of corn per acre on the lands which are now in cultivation within this drainage district which has recently been completed. And by the time all of the lands within these drainage districts are under cultivation Wayne county will then make more than enough corn for home consumption and will then construct a grain mill.

Charters Granted
The Secretary of State yesterday granted a charter to the Melville Dorsey Drug Company, of Henderson. The charter authorizes a retail and wholesale drug business and the authorized capital stock is \$15,000; the company being allowed to begin business when \$7,000 of the capital stock has been subscribed for. The incorporators are Melville Dorsey, M. M. Stephenson, J. H. Baber, George Gilliam and A. C. Zollcoffer.

FIFTY-FIVE DEATHS
DURING MARCH

Pneumonia Caused Eight of Them; Forty-three Births in Report of Registrar

Pneumonia, one of the most serious of winter diseases, was the immediate cause of eight of the 55 deaths in Raleigh during March, according to the monthly report of Registrar W. T. Davis. The number of death certificates issued was 59, but four were for still-births.

The causes of death were pneumonia, carcinoma, tuberculosis, 5; eclampsia, 1; senility, 2; uremia, 2; heart disease, 7; meningitis, 1; diabetic coma, 1; pellagra, 3; arterio sclerosis, 3; general paresis, 1; unknown, 1; Bright's disease, 1; malnutrition, 1; malnutrition, 1; accidentally burned, 1; Bright's disease, 2; angina pectoris, 1; asthma, 1; acute toxemia, 1; mitral insufficiency, 1; cholera, 1; myocarditis, 1; stillbirths, 4.

The contagious and infectious diseases reported during the month were: scarlet fever, 4; measles, 4; diphtheria, 1; scarlet fever, 1; chickenpox, 2. Of the 10 cases of smallpox, four have been released, four are in the pest house and two are under observation in the city.

White—Max Promme, girl; Charles E. McIntosh, boy; Wilmer E. Cole, boy; Archie Tynes, boy; J. W. Allen, girl; Myrtle Dworky, girl; Linton J. Brown, boy; Gustav Norton, girl; Lee O. Layton, boy; William W. Vass, girl; J. B. Strangha, boy; E. S. Jennings, boy; H. B. Humphries, girl; David Antry, girl; W. W. Debnan, boy; Gus Ruess, girl; Percy Phillips Lynch, boy; Henry Madison Armistead, girl; Joe Silver, girl; Roy Lunsford Champion, girl; William R. Dorsey, boy; Andrew P. Padden, girl.

Color—Samuel White, girl; S. O. Horton, boy; Eddie Rogers, boy; Sherman Hunt, girl; William Haywood, boy; Charles Jones, boy; Frank Harris, boy; Elizabeth Layton, girl; Claude Jefferson, boy; Willie L. Dixon, girl; William Harris, boy; Lee Frazier, boy; Ben Graves, girl; Howard Smith, girl.

Registrar Davis stated that all people in the city who see a birth that should be listed are requested to send a letter or card to the local office and he will furnish a registration blank, proper registration. It is for the child's protection in years to come that its birth should be recorded. It costs nothing but a little time filling out the blank form and may mean a fortune to some child.

The Law Opens the Door
Act Empowers Towns and Counties to Provide for Tubercular Sick. "Towns and counties are already taking advantage of the new law, and are providing the way for the tubercular patients at the State Sanatorium according to the provisions of the law," said Superintendent L. B. McBrayer of that institution recently. "It's a gain, because, and not because through it, the poor widow, the orphan child and those that are otherwise not able to pay the dollar a day may get relief and treatment and the mean whereby towns and counties would have had no chance."

BUYING BY TELEPHONE

The easiest, quickest, most pleasant method of placing orders for right-away delivery. Call 95, that's all—no trouble to you or extra cost.

KING - CROWELL DRUG CO.

The Rexall Store. Huyler's Candy. Nurses' Register.

ton, joined the department during the month. The upkeep of the entire fire-lighting apparatus was \$18.45, an average of \$5.15 per truck.

REVENUE COLLECTIONS

War Stamps Sold During Last Month in Eastern North Carolina Brought \$12,877.66.

War stamps of the department totaled \$405,579.34, which is an increase over February's collections. The February collections amounted to \$371,717.77.

TWO NEW FIREMEN

Chief Charles Farmer Makes Report of Work of Fire Department During Month.

With the value of property at risk amounting to \$12,050, the fire loss in Raleigh during the month of March was only \$5,898. Of this amount, \$5,000 was lost by fire at the home of Mr. B. S. Jerman.

Open Easter Sunday

KODAKS and SUPPLIES
Fresh Strawberry Ice Cream
Wake Drug Store and Hicks' Uptown

Where to Get Your Wants Supplied
The Old Reliable Book House of
ALFRED WILLIAMS & CO.
Raleigh, N. C.
(doing business at the same stand since 1867)

California Fruit Store

Don't forget to place your Easter Ice Cream order with us. We will have a good supply of Vanilla, Chocolate, Tutti Frutti, and Strawberry, made from fresh berries. Our ice cream is made only from pure sweet cream, and conforms with the pure food law.

California Fruit Store

Damrosch Tickets
Public Sale Today at Brantley's
OUT-OF-TOWN ORDERS FILLED IN ORDER RECEIVED
SEASON TICKETS
Arena Seats, \$3.00; Dress Circle, \$3.00 and \$2.50
According to Location
Balcony, \$2.00 and \$1.50, According to Location

The parade was led by the Henderson and Frankston grade pupils, followed by the county Board of Education in automobiles.

The school exhibits and the exercises were held at Cooper's warehouse, Vance county. Superintendent E. M. Rollins presided. Every school in the line deserved special mention. The floats were handsome and the decorations exceedingly attractive.

Bona Vista led, being the largest county school. Baskets in truckload, mobiles, boys on bicycles, gaily decorated, and some marching.

Everybody cheered "Uncle Sam," and the "Goddess Liberty." The Girls Canning Club occupied a float.

Middleburg won the first parade prize and others. The Bobbitt play was sold to be the most artistic in the parade.

This school received second prize, also 20 green prize ribbons and two yellow ones.