

REPORTED FOR THE STATE SENTINEL BY L. BOLLMAN.

Trullinger vs. Webb. Error to the Fountain Circuit Court.

This was an action of trespass for digging coal, brought by Webb against Trullinger. Plea not guilty—judgment for the plaintiff.

The defendant moved to discharge a juror, before he was sworn, for the reason that on being interrogated, he had disclosed the fact that he was related to the plaintiff, having married the plaintiff's niece. The Court refused to discharge him.

On the trial, the plaintiff showed, by deed, that he had conveyed the land to the defendant, and that the defendant had taken a reservation of the right to excavate coal from two coal banks, situated one on either side of a creek, &c.

The defendant then offered to prove that when the deed was executed, he had no understanding and agreed with the plaintiff, that the coal for which this suit was brought was to be the defendants, and that a coal bank was understood to be a visible bank of coal, and not the entire vein. The Court below refused to hear this evidence.

Judge BLACKFORD held, 1. That the cause of the challenge to the juror was sufficient. Affinity or alliance by marriage, by blood, or by law, is a principal challenge, and extends to consanguinity, &c. "As when the juror marries the daughter or cousin of the plaintiff." Coke Litt. 157.

2. That the Court correctly excluded the parol evidence offered by the defendant, for the understanding of the parties, relative to the reservation, must be ascertained by the face of the conveyance itself. It was not shown that there was any latent ambiguity in the conveyance.

Judge BLACKFORD held, 1. That the demurrer was rightly sustained, that plea being bad in a suit on a bond. Tate vs. Wymond, 7 Blackf. 240.

2. That whether the plaintiff was entitled to more than nominal damages, this Court could not determine, the evidence not being set out in the record.

Judge BLACKFORD held, 1. That the demurrer was rightly sustained, that plea being bad in a suit on a bond. Tate vs. Wymond, 7 Blackf. 240.

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The causes of error assigned are, that the Court had no jurisdiction of the person of the defendant, no process having been served upon him in Jackson county; that the Court had no jurisdiction of the subject-matter, the plaintiff to amend his judgment and declaration; that it could not set aside the verdict of the jury, and award a new trial.

Perkins held, 1. That so far as appears, the judgment might have been affirmed. Moore also, and as he had been served with process in the county where the suit was brought, the service upon Robertson was legal, under the 27 sec. of the R. S., p. 674.

2. That such service being legal, the amendments made were authorized by the 98, 99, and 100 sects, p. 684 of the R. S.

3. That this Court must presume that good cause was shown for setting aside the first award of damages, and, if so, the Court below might set it aside.

Judge affirmed. Crane vs. The State. Error to the Boone Circuit Court.

This was an indictment against Crane for keeping a stallion, and letting, &c., within the limits of a town, &c. The indictment alleges, that this was done "in the public view of the said town." A motion was made to quash it, because it did not allege that the plaintiff had not provided an enclosure.

Judge PERKINS held, That the averment that the offence charged was in the public view of the inhabitants of the town, sufficiently negated the fact that no enclosure had been provided.

Judge affirmed. Fowler vs. Smith. Appeal from the St. Joseph Circuit Court.

This was an action of debt on a note, the consideration of which was an exclusive right to make, use, and sell, in Laporte county, Harkness' Patent Grain Brake. The jury gave judgment for the plaintiff, the defendant was ordered to pay the amount of the note, and costs.

Judge PERKINS held, That the questions, whether there was fraud or a warranty, and the value of the right sold, were for the jury on the trial, and upon the evidence this Court could not say that the Court below erred in refusing to set aside the verdict. Hardesty vs. Smith at this term, 4 Blackf. 57.

Judge affirmed. Butterfield et al. vs. Beall. Appeal from the Ripley Circuit Court.

The wives of Butterfield and Bush inherited from their father a certain tract of land situated in Ripley county, and afterwards, together with their husbands, executed a deed conveying the same to the defendant, John C. Beall, to sell and convey the same.

In the acknowledgment it was omitted to be stated that the wives were examined "without the hearing" of their husbands. Wright sold and conveyed the land to Beall, and the deed of conveyance is void as to the wives, but valid as to the husbands.

An action of ejectment was subsequently brought by Beall, and the power of attorney is void as to the wives, but valid as to the husbands, and the defendant is entitled to the land.

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300, and note. Smith's Mercantile L. p. 247, and note.

4. That by law, the holder of a note has a right to notify all the indorsers and hold all of them, or any part of them, responsible to him, and if he notifies all and sees but one, the benefit of such notice accrues to that one. Or, but one may be notified, and that one must sue the liability prior indorsers to himself, by giving notice. Chitry on Bills, p. 330, 8th edition. Story on Bills, sect. 381.

5. That a Bank is bound by a custom if as permitted by the law, as if a Bank should allow four days of grace instead of three. 18 Maine R. 99; but in this case, if it has been accustomed to give notice to all indorsers, it is not thereby precluded from giving notice to one, and it would be, in fact, abrogating a part of the law itself.

6. That it is not necessary, under our present Constitution, to determine upon the validity of the notice given to one indorser, in order to determine upon the validity of the notice given to another. The consent of the one is not necessary, if it is shown that Henry was not discharged by the act of the Bank.

Judge affirmed. Williams, Executor, &c. vs. Williams. Error to the Morgan Circuit Court.

This was an action of assumpsit by John R. Williams against William Williams, executor of William Williams, deceased, for a certain sum due him from the decedent, the plea was non-assumpsit by the decedent, and non-assumpsit within six years. Replication to the plea, that the decedent, in his life time, concealed the cause of action, &c.

The Court held that a witness, where the decedent had purchased land of John R. Williams, that as part payment thereof he was to pay a certain sale note given by said John, when he should sell the land; that he had sold the land, and that he had refused to give a letter to said John, and had persuaded the witness not to take one, both of which were from the payee of the note, and were written to inform John R. Williams that the note was unpaid. Upon this and other evidence, the Court held that the defendant was liable for the balance of the note.

Judge PERKINS held, That the questions, whether there was fraud or a warranty, and the value of the right sold, were for the jury on the trial, and upon the evidence this Court could not say that the Court below erred in refusing to set aside the verdict. Hardesty vs. Smith at this term, 4 Blackf. 57.

Judge affirmed. Proceedings of the Indiana Board of Agriculture.

The Board was called to order by the President, Gov. Wright, and the following members of the State Board, appeared: Messrs. Wright, Harris, Brown, Orr, Holloway, Stevenson, McBride, Ratcliff, and Sweeney. Mr. Steele and Mr. Dunn, subsequently elected, were also in attendance.

The following persons appeared as Representatives from county societies: From the county of Allen, Mr. Nelson; from Elkhart, Mr. Murray; from Fayette, Stone, Hendricks, Singer; from Hamilton, Mr. Hendricks; from Kosciusko, Mr. Morgan; from Adams, Mr. Monroe; from Boone, Mr. Sargent; from Martin, Mr. Niblack; from Ohio and Switzerland, Hall; from Park, Donaldson; from Rush, Mr. Morgan; from Shelby, Whitcomb; from St. Joseph, Mr. Conroy; from Tipton, Mr. Leverage; from Vigo, Mr. Durham; from Wayne, Dennis; from Gibson, Cookman; from Orr, offered the following resolution, which was adopted.

Resolved, That the members of the Senate and House of Representatives be requested to attend the meetings of the State Board, when convenient, and particularly at our next sessions, and participate in the deliberations and discussions of the Board, and that the Secretary be authorized to request the duties of the officers.

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Mr. Bolman submitted the following preamble and resolutions: WHEREAS, a great and increased demand exists amongst the Farmers of our State for the annual Agricultural Report, issued from the office of the Commissioner of Patents, &c., as it is a supply is totally inadequate to this increased demand.

And whereas, through the organization of our State Board of Agriculture, and the County Associations, means are presented for the distribution of seeds; Therefore, Resolved, That we respectfully solicit the Commissioner of Patents to forward, annually, to each County Agricultural Society in this State, ten copies of his annual Report, to be by them placed in their respective libraries.

Be it further Resolved, That we solicit the Commissioner of Patents to forward to the State Board a portion of such seeds, plants, &c., as the Commissioner of Patents, in his opinion, may come to the climate of Indiana, and such as, in his opinion, would be adapted to the climate of Indiana.

Be it further Resolved, That the Secretary of the State Board, in a copy of these resolutions to the Commissioner of Patents, together with a list of the names of the several county societies.

And be it further Resolved, That a committee of three be appointed to report on the best means of establishing a State Board of Agriculture, &c., between the County Associations and the State Board.

The resolutions were at the request of the mover laid on the table until to-morrow.

On motion of Mr. Wright a committee of three, consisting of Messrs. Holloway, Stone, and Durham, was appointed to report to this Board, the number of copies of the Report of the State Board, which it would be proper for the Legislature to procure to be printed.

Resolved, That this Board appoint a committee to take into consideration the propriety of suggesting some feasible plan for the establishment of an Agricultural Society, which shall be organized in a Society for the promotion of Agriculture, &c., between the County Associations and the State Board.

On motion of Mr. Stevenson, resolved, that the committee on rules be instructed to report a resolution fixing the terms of service of the President and other officers of the Board, and also to define their duties.

Another motion was made, and it was resolved, that the Board in their report to the Legislature, urge upon their attention the necessity for more stringent enactments for the protection of Orchards, Vineyards, and other crops from the depredations of Swarms of Insects, &c.

Mr. Steele offered the following resolution: Resolved, That the committee be requested to amend the law of last year, in relation to the expediency of altering the mode of holding the State Fair, &c., so as to be held in the State House, &c., and that the money raised from shows, exhibitions, &c., be paid into the State Treasury, to be appropriated to the organized Agricultural Societies; which was adopted.

On motion, the Board adjourned until to-morrow morning at 10 o'clock.

FRIDAY MORNING, JAN. 9, 1852. The Board met. The following committees were then announced by the President.

On Publication.—Messrs. Sweeney, Bolman, and Fletcher. On Schedule of Premiums.—Messrs. Stevenson, Singer, and Williams.

On Amendments.—Messrs. Harris, Grubbs, and Davis. Executive Committee.—Messrs. Holloway, Brown, and Stevenson.

Mr. Dennis, from the committee for that purpose, made a report fixing the duration of the officers of the Board, &c., and the duties of the officers.

The President, Secretary, and Treasurer are to continue in office two years, and until their successors are elected. The last officer to give bond in a penal sum of ten thousand dollars. The Secretary to conduct all the business of the Board, &c., and to be succeeded in his office by Mr. Stevenson, and as amended on motion of Mr. Fletcher, the Executive Committee were authorized to adopt rules for the management of the Board, &c., which was adopted.

On motion of Mr. Williams, the Executive Committee were instructed to take charge of all matters not otherwise referred.

Resolved, That the committee on schedule of premiums be requested to report to this Board a list of premiums to be awarded at the contemplated State Fair, and not convenient to make such report, to make in this Board, &c., which was adopted.

When, on motion, the Board adjourned until two o'clock.

AFTERNOON SESSION. The Board met. The following report was made: Resolved, That the committee to which was referred the duty of determining the proper number of copies of the Report of this Board to be printed, respectfully recommend that 2,500 be printed, the Legislature concurring.

Which was unanimously concurred in. Mr. Donaldson offered the following resolution: Resolved, That the committee on amendments inquire into the expediency of amending the rules governing county societies, so as to award premiums on root-crops of a less quantity than one-fourth of an acre; which was adopted.

On motion of Mr. Davis, the following resolution was adopted: Resolved, That a committee of three be appointed by the President who shall visit the Fairs of other States for the purpose of a friendly interchange of civilities with our agricultural friends therein; and for the purpose of ascertaining the various modes of conducting them, machinery, &c., as they may deem worthy of consideration, together with such details, as in their opinion, would subserve the interests of this Society, and they shall report the same to the next annual meeting of the Board, &c., which was adopted.

The committee recommended a premium of \$25 to be given for the best essay on the subject of drainage. The Board then adjourned until 7 o'clock, to meet in the Hall of Representatives.

EVENING SESSION. The Board met. Mr. Dennis, from the committee on amendments, made the following report: The committee appointed to report to the Board such alterations and amendments in the law pertaining to agriculture as they may deem necessary, beg leave to submit the following report: 1. Amend so that the time of service of one-half the members of the Board shall expire on the last day of the session of the annual meeting in January.

2. Amend so as to fix definitely the pay of the members of the State Board of Agriculture, &c., and to provide for the actual expenses incurred, and requiring each County Society to pay the expenses of their delegate or president, in their attendance at the meetings of the State Board.

3. Amend so as to provide for the actual expenses incurred, and requiring each County Society to pay the expenses of their delegate or president, in their attendance at the meetings of the State Board.

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8. Amend so as to provide for the actual expenses incurred, and requiring each County Society to pay the expenses of their delegate or president, in their attendance at the meetings of the State Board.

Which resolution was unanimously adopted. The business having been completed, Mr. Murray moved that the Board adjourn without day.

Before putting the question, the President addressed the Board, congratulating them on the success of their efforts to exhibit the utility of the law which gave existence to the Board, and those County Associations so rapidly forming over the whole State. These were their first beginnings, and its future usefulness could easily be seen in them. That their efforts would be cordially responded to by the General Assembly and the people of the State, he did not doubt; for all had but one object in view, the honor and prosperity of the State itself.

The resolution was then adopted. When the Board adjourned, the die.

ADMINISTRATOR'S NOTICE.—Notice is hereby given that letters of Administration have been granted to the undersigned, in favor of the estate of James Ferris, late of said county, deceased. All persons indebted to said estate are required to make immediate payment; and those having claims against the same are invited to present them properly authenticated for settlement.

J. H. McKEERNON, Administrator. DODD'S SOFT CASSIMERE HATS.—For some time past there has been a manifest feeling on the part of the hat wearing public, in favor of a soft hat. The feeling has been to produce an article that shall combine, in appearance, in quality, and in comfort to the head, all the various qualities of the different styles of hats now in vogue. We now offer for public approval, our SOFT CASSIMERE HATS, and we confidently believe that they will give general satisfaction. They are made of the finest quality of Cassimere, and are of a soft, comfortable fit, and will wear well under all circumstances. They are made of the finest quality of Cassimere, and are of a soft, comfortable fit, and will wear well under all circumstances.

INDIANA AGENCY FOR THE SALE OF CHICKERING'S PIANO FORTES! Located Permanently at the new Masonic Hall, ALBERT E. JONES, Agent. Will open a store for the sale of the above named Pianos, &c., at the new Masonic Hall, &c., &c.

THE HANCOCK CIRCUIT COURT. In Chancery, for District—Martha Johnson, Christopher Johnson, &c. vs. Christopher Johnson, &c.

Resolved, That the committee be requested to amend the law of last year, in relation to the expediency of altering the mode of holding the State Fair, &c., so as to be held in the State House, &c., and that the money raised from shows, exhibitions, &c., be paid into the State Treasury, to be appropriated to the organized Agricultural Societies; which was adopted.

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