

SUPREME COURT.

Hudson Wilson, appellant, vs. Alexander W. Wallace, Ellen Wallace and Charles Eigenbrodt as guardian of John Hamme...

The state of Minnesota, ex rel. George Schmidt, relator, vs. John L. MacDonald, judge of the Eighth judicial district, respondent.

By the court: The alternative writ must be quashed on two grounds: First—The affidavit does not set forth a copy of the proposed statement of the case...

Second—There is a variance between the statement which the alternate writ requires the respondent to insert in the settled case...

All objections to the writ are overruled. Charles G. Parke, appellant, vs. Valentine G. Hush, respondent. Syllabus: Rule in Pampier vs. Scanlan, 28 Minn., 345, that a creditor redeeming need not pay liens held by the purchaser at an execution or mortgage sale subsequent to that on which the sale was had and prior to that under which he redeems...

Charles Goddard Parke, appellant, vs. Valentine G. Hush, respondent. I am unable to concur with my brethren in the conclusion arrived at by them in this case. I think that the defendant as a redemptioner under his judgment lien was required to pay the amount bid by plaintiff on both execution sales.

My reasons for this change of views are briefly these: The statute itself will not admit of the construction put upon it in that case. So far as concerns the question now under consideration, the statute regulating redemptions from mortgage sales and that regulating redemptions from execution sales are in substance the same.

If the senior creditor is by the assignment made, the senior creditor may redeem within five days after the expiration of said year, and each subsequent creditor within five days after the time allowed all prior lien-holders as aforesaid.

I think that the provision (and the whole of it) as to what a creditor must pay in order to redeem applies to all creditors, the senior as well as subsequent creditors; that the statute means just what it says, that a creditor, be he the senior or a subsequent one must in order to redeem, pay all liens prior to his own held by the party from whom the redemption is made.

Hence I think the suggestions made in Pampier vs. Scanlan, that the senior creditor can redeem by paying simply the amount for which the property was sold and interest, and that it is only subsequent redemptioners who are required to pay, in addition to this all liens prior to his own held by the party from whom the redemption is made, are mere interpolations for which there is no warrant in the text of the statute.

Moreover, the rule of equity which required a party, who filed a bill to redeem, to pay all liens prior to his own, held by the party from whom he sought to redeem is a familiar one. Now while the right of redemption after sale is a purely statutory right which depends wholly upon the statute, yet it is to be presumed that the law makers in framing the statute understood, and had in mind these familiar principles and designed as far as circumstances would permit to follow the analogies of existing rules governing the equity of redemption; and in requiring a creditor who redeemed "to pay all liens prior to his own held by the party from whom the redemption is made," I think I refer to the statute in mind.

There was an additional reason why a creditor who redeemed should under the statute, be required to pay all liens prior to his own, held by the party from whom he redeemed. Such a redemption does not annul the sale, but operates as an assignment to the redemption of the right acquired under such sale. Hence, if not paid at the time of redemption all these liens would be entirely cut off.

An examination of the history of a similar statute in the state of California, and the decisions of the courts of that state under it tried very strongly to support the construction of our own statute now contended for. Van Dyke vs. Herman, 3d Cal. 295. Knight vs. Fair, 9 Cal. 117. Sharp vs. Miller 47, Cal. 82.

It may be suggested that the decision in Pampier vs. Scanlan, has become a law of property and therefore even if erroneous should stand. There is some force in this suggestion, and generally such a consideration should be controlling.

But I am satisfied that the doctrine laid down in this case will work mischief and will in many cases, as in the present case, make the statute a purer absurdity. For if there be any reason why the plaintiff who purchased at the execution sales on both the first and second judgments was required to redeem from himself on the sale under the execution on the first judgment in order to prevent his interest acquired under the other execution sale from being cast off by a redemption by defendant under a third judgment, I have failed to discover it. What benefit could such an idea be to anybody? The decision in Pampier vs. Scanlan has been so recently rendered that it is not probable that it has been followed to any great extent as a rule of property.

But such a decision is necessarily retroactive and applies to redemptions made before as well as those made since it was made. Therefore the evils to result from allowing it to stand will probably be greater than those that will follow from its being overruled. My judgment is that it should be promptly overruled. It can work no hardship to defendant because his attempted redemption was made before the decision of that case and hence he cannot urge that he was misled by it.

Probate Court. [Before Judge O'Gorman.] Estate of Irene B. Keep, deceased. Bond filed and approved; letters issued; notice to creditors given; inventory filed. Estate of John B. Phillips, deceased. Petition for conveyance of real estate, filed. Hearing December 14, 10 a. m. Estate of Mary McDonald, deceased. Petition for letters of administration, filed. Hearing November 13, at 10 a. m. Estate of Hermann Wallraf, deceased. Inventory filed. Estate of John J. Knox, deceased. Inventory filed. Estate of Erber R. Bowen, deceased. Petition for letters of administration, filed. Hearing November 13, at 10 a. m.

Municipal Court. [Before Judge Barr.] Pat Conlin, abusive language; paid \$2 and costs. W. Harrington, drunk; paid \$5. E. Gabel, disorderly; bonds in \$100 to keep the peace. D. Bell, larceny; discharged. "Buchapalpa."

Quick, complete cure, all annoying Kidney, Bladder and Urinary Diseases. \$1. Druggists. "HARD TO KILL. How the Fates were Buffed in Their Conspiracy Against a Connecticut Man. There are cases on record, there were many of them during the war of the rebellion—in which men were repeatedly hurt so that death appeared inevitable. No sooner would they recover from one apparently mortal wound than they would receive another. The Hartford Times not long ago published a story that was widely copied of a man whose history was told by himself to a correspondent in Michigan, and whose personal appearance bore out his story, so the correspondent said. He claimed that his troubles began when he was only five years old, when he fell through the roof of a shed, breaking all his ribs, both collar bones, his breast bone, his right arm in two places, his left arm above the elbow, and the bones of his left hand. It was thought that he could not recover, but he did so in a year. His hip was dislocated twice in the same year, and his right ankle was broken. In 1856 he was shot in the ankle in a fight on a Mississippi steamboat. During this time he had Asiatic cholera, yellow fever, and, in Central America, the spotted fever. This last disease stayed with him four months, and "peeled him like a snake." It was not until the war broke out however, that this remarkable man had full power for his talents. Joining the army he was bayoneted in the left knee in the battle of Gainesville, and captured by the confederates. During his imprisonment of three months he was unstruck, and afterward nearly starved to death, and was only paroled when his captors supposed him to be without the ability to do further service. In a long march the veins in his left leg burst, and he almost died of hemorrhage. At Chambersville he was knocked down by a spent cannon ball, and while lying prostrate he was run over by a field piece or six-pound calibre, which passed directly over his head and body. After recovering again and getting his discharge he undertook one day to cut down a tree, but by a not uncommon accident the bit of the tree flew up as the tree fell, and this man standing in the way, was so badly injured by the splinter of a man of his habits, was knocked a distance, he says, of forty feet. He lay on the snow insensible for eight hours, and on getting his senses again found that his skull was broken and his brains were leaking out, and that eight of his teeth were gone. In three months he was entirely well—that is, all that was left was well, but in handling some blasting powder he managed to ignite it and the least died of hemorrhage. At Chambersville these were the principal accidents this man related, but he said he had had many minor ones. In spite of all he had been through he was well and claimed to be ready to fight any man of his age and weight, but complained that his blood was so thin that he was unable to keep warm even in summer. In olden time such a man would have been thought by the surgeon to be a destined to die of gangrene, but there is some question whether hanging would be a successful operation. Whether the story is true or not, it is all possible, and there is nothing in it that cannot be duplicated in the medical record, except the fact of so many accidents to the same victim.

Mexico. CITY OF MEXICO, Oct. 18.—Ignacio L. Vallarta, chief justice of the supreme court and until the recent constitutional amendment was proclaimed vice president of the republic, sent in his resignation to congress last night. He says his political relations interfere with his judicial duties. His term was within five months of expiration. The vacancy will be filled by a national election. Vallarta has been a member of congress, governor of Jalisco, minister of interior under Juarez, and minister of foreign affairs under Diaz. A resolution was referred farabally in congress making the federal district a state to be called the state of the valley of Mexico.

Salt Against an Elevated Railroad. ALBANY, Oct. 18.—The court of appeals reverses the judgment of the lower courts, and orders a new trial to determine the question of damages in the case of Storrie vs. the New York Elevated Railroad company. Storrie claimed to own a part of the street in front of his property, and sued the road for damages on the theory that the corporation was guilty of trespass. The decision is that of a bare majority of the court.

"Many silly people despise the precious, not understanding it." But no one despises Kidney-Wort after having given it a trial. Those that have used it agree that it is by far the best medicine known. Its action is prompt, thorough and lasting. Don't take pills, and other mercurial salts, but get the natural action of the Kidney-Wort restore the natural action of all the organs.

The Old New York Postoffice. NEW YORK, Oct. 18.—The old postoffice site and property on Nassau, Cedar and Liberty streets sold for \$650,000.

HE COULDN'T CATCH ON. The Difficulty the Horse Reporter Encountered in Reporting a Sermon. "We are a little short," said the city editor in an apologetic way, to the sporting reporter on Saturday night, "and I will have to ask you to help on the religious tomorrow."

"All right, what is it?" "Go down to the cathedral; our Episcopal bishop is going to discourse on something interesting. Use your own judgment about space."

The sporting reporter finished an article on the result of the running meeting, checked off his assignment, and went home. The next morning he turned up smilingly at the church and hustled in through the vestibule as if he had been delayed. He was met by a solemn-looking usher, of whom he inquired, breathlessly: "Am I in time for the first heat?"

The usher looked astonished, and asked: "Can I show you to a seat?" "Yes, will my quarter-stretch ticket admit me to the grand stand?"

"We have no grand stand," said the usher, perplexed, "but I can give you a front pew if you would like that." And he conducted him to a seat in the second pew, immediately under the pulpit, and went away wondering what sort of fish had come to church that morning. The sporting reporter took a seat next to a benevolent looking old gentleman with mutton-chop whiskers and a very high collar. He looked in vain for a table or rest to write upon. Not finding any he mopped his face with his sleeve and began writing a very small stab of lead pencil.

"Good day for the race," he said from force of habit. The mutton-chop man did not answer, and the turf reporter inquired if there were many entries. The man did not understand this either, and the reporting opened a hymnal and began to read it, laboring under the impression that it was an old-fashioned "Krick's Guide." The church slowly filled up, and after a time the bishop and other clergymen came out and the service began. The entire ceremony completely nonplussed the racing man. He could not keep up with the procession, and when the bishop and clergyman began intoning together, he offered to bet with the mutton-chop man as to which would come out winner. He sat the morning out and went back to the office with the best face on the matter he could put.

"See here," he said to the city editor, "what sort of a racket were you trying to give me?" "Why, what is the matter?" said the chief. "Why, that church racket. I couldn't make head or tail of the race, and for the life of me I don't know this minute who won. It was this way, you see. I went in and got a good rest right in the grand stand; there was no reporter's stand."

"I mean you sat in the front pew," "Um-m-m," said the horseman, "right in front of the judges' stand." "Judges' stand?" said the editor; "why, that was the pulpit."

"No, it wasn't any pulpit. It was just like a judges' stand, only it had a big cover, which I suppose they let down on the judge when he made a bad decision. The grand stand and pavilion were well filled up, and I tried my best to get a few points on the day's race, but no one seemed to be very keen on points."

"Did the bishop preach?" "There were four entries—" "Four what?" "Four entries. One was a big sixteen-hand fellow, whose colors were blue and white; the other was smaller, and had red and white; the other was black and white, and the last seemed to be riding out of his colors, and I couldn't tell which was which, for there were no names. Blue and White got the pole and the scoring began. I tried to get some odds on him from a sucker who sat next to me, but he wouldn't bet. At last they all came up neck and neck, and I stood up and shouted 'It's a go!' but the crowd all told me to sit down, and the man who tends the gate came up and told me he'd put me out if I didn't make less noise. I asked him who was running in this race, and he told me to sit down. Red and White caught a shoe at the quarter pole, but caught up fairly afterwards, resumed his pace and came under the wire a clear winner by half a length, trotting a little lame, however. They took breath, and I tried to catch a bet again, but I could find no takers. Time was called for the next heat, and the uncommon accident of the bit of the tree flew up as the tree fell, and this man standing in the way, was so badly injured by the splinter of a man of his habits, was knocked a distance, he says, of forty feet. He lay on the snow insensible for eight hours, and on getting his senses again found that his skull was broken and his brains were leaking out, and that eight of his teeth were gone. In three months he was entirely well—that is, all that was left was well, but in handling some blasting powder he managed to ignite it and the least died of hemorrhage. At Chambersville these were the principal accidents this man related, but he said he had had many minor ones. In spite of all he had been through he was well and claimed to be ready to fight any man of his age and weight, but complained that his blood was so thin that he was unable to keep warm even in summer. In olden time such a man would have been thought by the surgeon to be a destined to die of gangrene, but there is some question whether hanging would be a successful operation. Whether the story is true or not, it is all possible, and there is nothing in it that cannot be duplicated in the medical record, except the fact of so many accidents to the same victim.

"Well, I should say so. There was a full orchestra in the band house. It was quite slick, but one filly was crowded into a pocket by a gold gelding, and when the race was finished she was left behind. When I came out they asked me to see the Paris mutuels, but they weren't on the Paris. I didn't get the hang of the thing to-day, but if you give me another crack at it next Sunday I think I will get on to it in better shape."

The chief, however, will confine the young man to his proper sphere hereafter.

CHICKEN REFORM. A Movement That Failed. Property in chickens had been extremely precarious in Palmyersville, Ga., for several years. Not only was there a large colored population in the place, but annual colored camp-meetings was held in the immediate vicinity every August. No intelligent white man would have complained had he occasionally missed one or two chickens, but when an entire chicken-house was emptied in a single night, it was more than human nature could bear without grumbling.

About a year ago a new minister—the Rev. Pompey Marcellus—took charge of the Palmyersville colored congregation. He proved to be a preacher of exceptional powers, and a man of advanced and even light-colored views. He had an intimate knowledge of the scriptures and the high branches of calcimining, and when he presided, as he frequently did, over the meetings of his conference, the stern way in which he kept order, and the dignity with which he wielded his official white-wash brush—now waving it to summon some brother to the platform, and now pointing it at an unruly member, and rebuking him to keep quiet—filled the holder with admiration.

Soon after arriving at Palmyersville, the Rev. Mr. Marcellus preached a sermon on chicken stealing, which created considerable excitement. It was certainly a bold act, for the average colored minister is in the habit of treating chickens as an abstract doctrine, not to be discussed with profit in the pulpit. Mr. Marcellus took the ground that there should be moderation in all things. He was not prepared to say—so he informed his hearers—that two or three chickens now and then was a matter that anybody need make any fuss over. The white people did not create chickens, and the colored people had as much right to eat chickens now and then as had their richer and lighter-colored brethren. Still, Mr. Marcellus stated that this thing of cleaning out the entire chicken roost was wrong. It was next door to intemperance and it must be stopped. As the minister of the Palmyersville Episcopal Mount Moriah church he felt it his duty to bear witness against excess in chickens, and he should do it no matter how much it might cost him.

So highly was this sermon thought of by the white residents of Palmyersville that several leading citizens called on the Rev. Mr. Marcellus to thank him—although they could not perceive that the sermon had practically strengthened their right of property in chickens. It was then that Mr. Marcellus proposed a plan of compromise between the natural longings of the colored appetite for chickens and the desire of the white people to keep their chicken houses intact. He proposed that each chicken owner should make a monthly contribution of 2 per cent. of his chickens to the pastor of the Palmyersville Baptist Episcopal Mount Moriah church. These chickens were to be used by Mr. Marcellus in allaying the thirst of his congregation for illicit chickens, and he undertook to promise that so long as this voluntary contribution should be made, chicken stealing should be absolutely stopped.

"This hyer is a voluntary contribution, given to the pastor of the church, and no man ain't obliged for to give it, but if he don't, then chickens of his'n will be pretty shuah to disappear like the dew upon Herod."

The leading citizens thought over the matter and were greatly pleased with Mr. Marcellus' plan of a compromise. They discussed the matter with other leading citizens, who, without exception, said that it was better to compromise than to lose all one's chickens. At the same time, and with curious inconsistency all the leading citizens denounced Mr. Marcellus as a cunning and unprincipled blackmailer. They said that if he had influence enough with his people to put a stop to chicken-stealing he ought to do so; that he had no right to collect 2 per cent. of everybody's chickens under the threat that if the chickens were not delivered to him their owners would lose their entire chicken property; that no one could tell what extent Marcellus would appropriate to his own use the chickens collected by him, and that to call such a collection a voluntary contribution was a piece of unmitigated hypocrisy.

Nevertheless the chicken compromise was adopted almost unanimously. There were but two leading citizens who refused to make a voluntary contribution to Mr. Marcellus, preferring to buy new chickens for their chicken-houses. A few nights later every solitary chicken belonging to the two leading citizens disappeared, and, though Mr. Marcellus said that he was very sorry for it, the fact that an unusual quantity of chicken feathers simultaneously appeared in his back yard was commented upon openly and coarsely. The losers of the chickens did not, however, submit quietly to their loss. They assessed the ardent and fervent of Mr. Marcellus for their chicken-houses. A few nights later every solitary chicken belonging to the two leading citizens disappeared, and, though Mr. Marcellus said that he was very sorry for it, the fact that an unusual quantity of chicken feathers simultaneously appeared in his back yard was commented upon openly and coarsely. 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