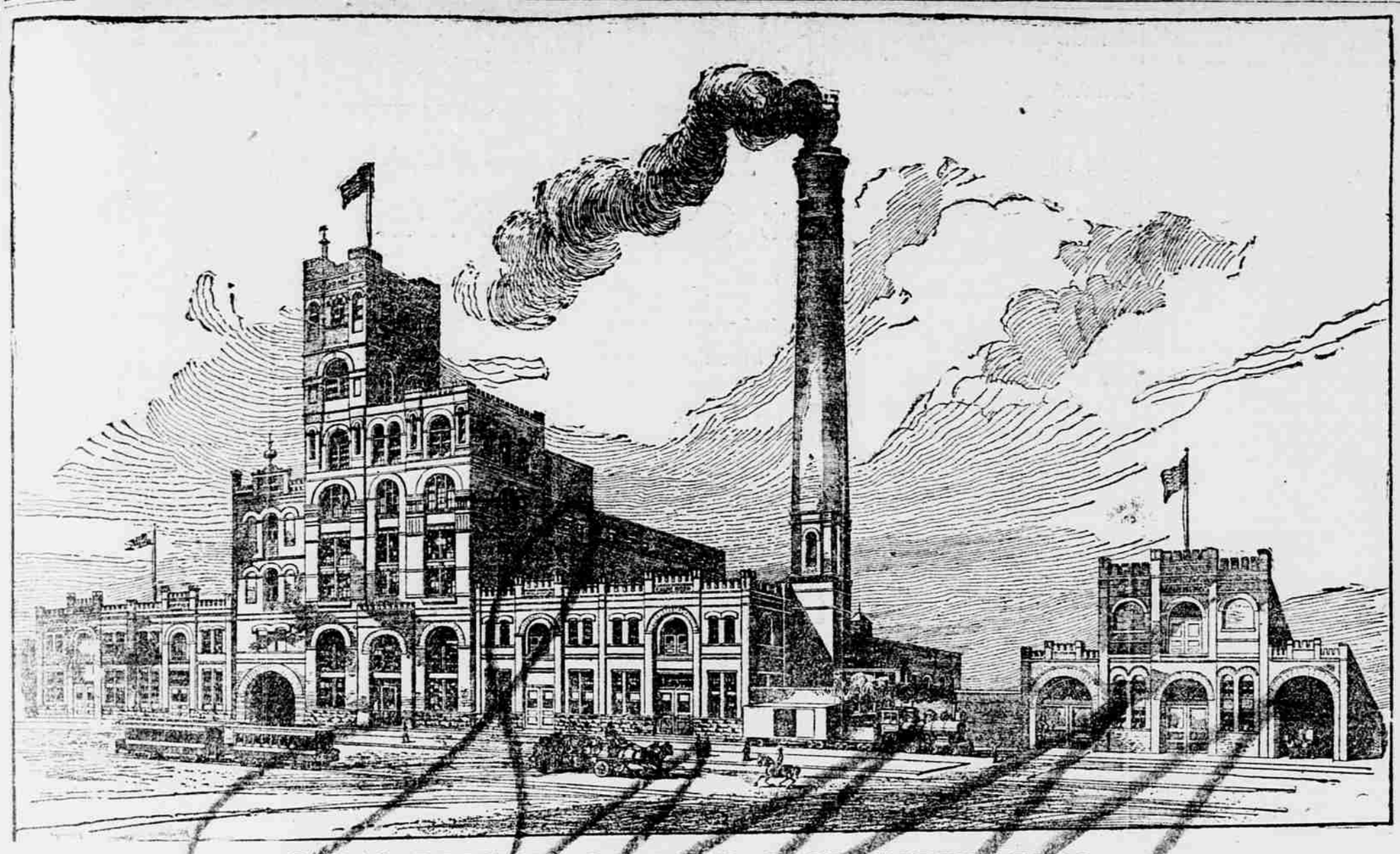

TEXAS BREWING COMPANY, FORT WORTH, TEXAS.

WE OFFER THE

Largest and Most Complete Stock of Bar Fixtures

In the South, at Low Prices and on Easy Terms.

TEXAS FIXTURE COMPANY,

Office and Salesroom at Texas Brewing Company. Fort Worth, Texas.

THE HIGHER COURTS.

Synopses of Decisions Rendered at the Tyler Sitting.

THE COMMISSION OF APPEALS.

Supreme Court—Hon. John W. Stayton, C. J.; R. R. Gaines and John L. Henry Associate Judges—S. D. Reeves, Clerk—The Findings.

Commission of Appeals.

Ricker, Lee & Co. vs. M. D. Collins; from Lamar. 1. Where a cause after disposal has by agreement of opposite parties been reinstated on the docket of this court, a third party, not a party to the agreement, after standing by without protest and also agreeing to a continuance, cannot object to said reinstatement of the cause. It comes too late. 2. This court will not interfere because of a conflict in the evidence, same being sufficient to sustain the verdict and judgment. No reversible error. Affirmed. Collard, J.

G. A. Foote vs. Fannie E. Sewell et al.; from Collin. Trespass to try title. 1. In a petition suit, the land being situated in this state, where the parties being non-residents are cited by publication, the judgment imports absolute verity so far as it affects a partition of the land, but an execution for costs on such a judgment was not authorized by the statute of 1845. The judgment could only bind the "unknown heirs" in relation to the property in litigation. The proceeding could not beget a personal demand against the defendants for costs to be satisfied out of their property generally. [95 U. S., 714; 119 United States, 190.] Affirmed. Tarlton, J.

Regina Corona vs. Galveston, Harrisburg and San Antonio Railway; from Maverick. 1. The uncontroverted evidence shows that the death of the son of appellant was caused by the negligence of the conductor of a worktrain on which deceased was employed. The conductor was a fellow-servant of deceased. [17 S. W., Ref. 49; 76 Texas, 618; 61 Texas, 196.] The court did not err in ordering a verdict for appellee. Affirmed. Garrett, P. J.

John Durst et al. vs. J. S. Daugherty; from Haskell. Trespass to try title. This is a mixed case under article 1474, Revised Statutes. 1. The substitution of the word "the" for "the" in a certificate of acknowledgment to a deed does not render same defective. It is apparent from the certificate as a whole that the officer intended to write the proper word, and that its omission was a clerical error. 2. The acknowledgment of a wife to a deed which recites that "she has freely and voluntarily," with "fear, or compulsion on the part of her husband," is sufficient. Held: The use of the word "with," instead of "without" fear, does not render the certificate defective. It is apparent that "without" fear, was intended to be written. 3. It appears that appellee purchased the land without notice of appellant's claim, and only paid one-half of the purchase money before he knew of appellant's claim, and that the other half of the purchase money has not been paid. Held: This necessitates a revision of the case.

The jus tantu protection accorded an innocent purchaser is so well recognized by American courts that it is useless to cite authorities in support of the proposition. In applying this rule, on another trial, it is necessary to ascertain the equities of the parties, as this is the primary object to be accomplished. In adjusting equities it is permissible to inquire into the price paid, valuable improvements, etc., the conduct of the parties with reference to their diligence, laches or negligence, if any, so that the court can determine who is entitled to equitable relief. Reversed and remanded. Fisher, J.—Tarlton, J., does not sit.

C. C. Fitzgerald vs. Juan S. Hart; from El Paso. 1. The court below ordered a verdict for appellee, and this is the only question in the case. Held: The test as to what the court should charge is, would the evidence support a verdict in favor of defendant, and should the court have granted a new trial if the jury had found in defendant's favor? If, after the evidence is all in, and the court should consider that it is not sufficient to support a verdict for the defendant, and he should consider it his duty to grant a new trial, if the jury would so find, then in that case the court should direct a verdict for plaintiff. Affirmed. Fisher, J.

Gulf, Colorado and Santa Fe Railway Company vs. Ricker, Lee & Co.; from Lamar. 1. Every reasonable intendment will be indulged in in favor of a pleading as against a general demurrer. Appellant's demurrer was properly overruled. 2. Special charges asked by appellant were properly refused by the court below. There is no error. Affirmed. Collard, J.

L. P. Dodson et al. vs. J. H. Bunton; from Edwards. 1. That the legislature did not intend to create a "new county" by the act of 1887 is made evident from the title of that act. It is entitled "An Act to establish the western boundary of Edwards county." No "new county" was made by this law, and most certainly not "in whole or in part" out of Kinney county. This suit was filed against appellee in Kinney county, he living in Crockett county, the latter county being attached to Kinney for judicial purposes. By the act of 1887 the territory in which appellee lived was segregated from Crockett and attached to Edwards county. The suit being instituted in 1888, before the act of 1887, the court erred in changing the venue from Kinney to Edwards county. Reversed and remanded. Marr, J.

Gulf, Colorado and Santa Fe Railway vs. R. D. Box; from McLennan. Suit to recover personal injuries. 1. The special charges asked by appellant were properly refused. 2. Appellee is entitled to recover for the mental anguish of his wife. 3. It was in proof that the whistle was blown repeatedly, and louder and oftener than usual. There were no cattle on or near the track. We think the proof authorized the finding that the accident was caused by horses becoming frightened and consequent overturning of the wagon, which in turn was caused by the negligent blowing of the whistle by appellant company. 4. The evidence shows that the engineer and fireman saw appellee and his team at the time the horses began to get frightened, and that the whistle continued to be negligently blown, loud and often, after they observed the fright of appellee's team. Affirmed. Marr, J.

Jacob Cook et al. vs. W. H. Coswell et al.; from Cooke. Trespass to try title. 1. A plaintiff in an action of trespass to try title must show that he has a possessory title to the land at the time of the demise laid in the petition. This plaintiff did not do, as to so much of the land as is represented by the life estate of his father, J. M. Coswell. The judgment is affirmed except as to the life estate of J. M. Coswell, which should be reversed. Judgment is so entered without prejudice to W. H. Coswell to sue for the one-twelfth of the land. So ordered. Reformed and rendered. Tarlton, J.

W. C. Ballard et al. vs. G. W. E. Carmichael et al.; from Haskell. Trespass to try title. 1. Where a plaintiff institutes a suit of trespass to try title with color of title, releases to the land procured subsequent to the filing of the suit are admissible in evidence. 2. A deed from a married woman without her privy acknowledgment does not convey her title in the land, nor can such an instrument bind a married woman as an ancient document. 3. A party who pleads in reconvention to have his title quieted must prove title in himself, and no presumption will be indulged to support his title. The judgment as to Labreiere is not supported by the evidence. Reversed and remanded. Garrett, P. J.

Charles Romer vs. Frederick Meyer; from Kendall. Trespass to try title. 1. A plaintiff may recover upon a title acquired by limitation alone. 2. Limitation will run against the homestead right, as against other titles. 3. The wife as well as her husband may lose her right to the homestead by adverse possession, etc., unless it be her separate property. [70 Tex., 42.] Reversed and rendered for appellant. Marr, J.

S. M. Little vs. S. E. Mings, et al; from Upshur. 1. Being no briefs filed by either party by the last call of the assignment to which it is returnable, a cause will be dismissed for want of prosecution. Dismissed. Per curiam.

Supreme Court.

R. E. Lee Hall et al. vs. J. W. Fields; from Grayson. On rehearing. 1. There is no merit in the motion. Grounds set up have been fully considered heretofore. Motion overruled. Per curiam.

Aaron Wortham vs. Geo. T. Thompson; from Lamar. On rehearing. 1. Grounds set up in motion fully considered in former opinion disposing of the case. There was no error in former opinion. Overruled. Per curiam.

W. T. Waggoner vs. Jules Alvord; from Wilbarger. On rehearing. 1. The motion is not well taken, and grounds of same are untenable. Overruled. Per curiam.

W. D. Paden, Admr. vs Mary Biscoe et al; from Milam. On rehearing. 1. Our former decision herein was correct. No reason shown for setting same aside. Motion overruled. Per curiam.

J. E. Sellers vs. Texas Central railway; from Bosque. On rehearing. 1. Former opinion correct, and grounds set forth in motion are not tenable. Per curiam.

S. A. Abernethy vs. Mary A. Stone; from Falls. On rehearing. 1. The motion is not well taken. Former disposition of the case was proper. Overruled. Per curiam.

Thomas Alston et al. vs. S. P. Emmerson; from Dallas. Motion to give precedence. 1. The record shows proper grounds for granting the motion, and precedence will be granted. So ordered. Per curiam.

M. E. Stooksberry vs. M. Swann et al.; from Hunt. Motion to supplement record. 1. Upon agreement of both parties, any transaction in the court below may be embodied in documentary form and treated as a transcript. Granted. Per curiam.

Marion County et al. vs. Texas and Pacific Railway; from Marion. Motion to dismiss. 1. An appeal bond is a prerequisite to an appeal in this case. Being no appeal bond, the cause must be dismissed. So ordered. Per curiam.

Eczema, scalp covered with eruptions, doctors proven valueless, P. P. P. was tried and the hair began to grow again, not a pimple can be seen, and P. P. P. again proved itself a wonderful skin cure.

Put a sideboard
In your dining-room
And select
At Maddox, Ellison & Co.'s,
The popular furniture dealers,
Who sell on the
Easy payment plan.

REV. SAM SMALL ARRESTED.

Charged with Obtaining $1000 Under False Pretenses from a Boston Clergyman.

BOSTON, MASS., Oct. 18.—Last Monday an incident occurred which has been kept so secret that the news did not escape until to-day. On that day a deputy sheriff arrested Rev. Sam Small on a warrant charging him with obtaining by false pretenses from Rev. H. U. Monroe, an Episcopalian clergyman, the sum of $1000. It was a civil action, so the prisoner escaped the publicity of a court scene. He was bailed out by Secretary Marden of the prohibitory state committee, and has been stumping the state ever since. The case was brought in the civil court solely to avoid the scandal that a criminal case might bring to the cause of prohibition. It is said that the transaction which resulted in the arrest of Mr. Small took place in August, 1890, when Small was president of Ogden university. It is alleged that Mr. Small induced Rev. Mr. Monroe to pay $1000 for a lot of land which he represented to be worth that sum. The land belonged to the university and, as the story goes, was worth only $500. That was the sum demanded by the university, and it is understood that Small divided the purse with the university and was $500 richer by the transaction. When Mr. Monroe learned that he had been duped he demanded the return of his money. That was not forthcoming and hence the suit.

Bedroom sets,
From the
Cheapest to
Dearest, at
Maddox, Ellison & Co.'s.
They sell
Goods on the
Installment plan.

Attachment at Bastrop.

Special to the Gazette.

BASTROP, BASTROP COUNTY, TEX., Oct. 21.—M. R. Roberts, general merchant, was closed by attachment this morning. Liabilities not yet known.

The most elegant
Stock of furniture
In the state of Texas
Is at Maddox, Ellison & Co.'s,
And they sell at
Very low prices
On the monthly installment plan

TERRELL'S ALL RIGHT.

She Has All the Substantial Elements of Success—Other Places Can Have the Windy Air Castles.

Special to the Gazette.

TERRELL, TEX., Oct. 21.—There has to be a great many maiden speeches made about different parts of Texas, and they are generally so soft that they almost melt before you can read them. They are so easily digested that they leave no trace of ever having been. Soup is a mighty good thing when backed up by roughness, but it takes roughness to make soup worth anything. Substantials are what we all need in mental and physical nature. Air castles never have any foundation, and as a consequence are no castles at all. We have lots of air castle builders all over Texas, but what we want you to take hold of has life, solid realities about it. Suppose on this "momentous occasion" we offer you some plain, stubborn facts for digestion. We would like to fill your mind so full with common-sense ideas that your mouth will fly open and your eyes pop out until they could be roped in by a cowboy. We are able to tell you that tadpoles are found where there is water, and that mosquitoes will not refuse to bite you just because you are a citizen of Terrell. All men who die here do not stop breathing because of old age. Many die of disease. This is a remarkably healthy climate, but people do die, and some mighty young people die, too.

Terrell is not outside of the world; we are a part of Texas and we are right in the great big heart of the great big state, and of course partake of the things hereabout. But see here: If you want to live among better than an average settlement of good people, you can find a place here and hereabouts. You will find we are hard to move towards new enterprises, because our eye-teeth have been cut so many times on catfish schemes, full of nothing but promises, that we don't like to bite at a bait at all, even if the hook is so well hid that we can't see anything but the wiggling worm. Now we want the farmers' fair, and we want it bad, provided his neck is bent towards changing his abode, and in the meantime we will throw out a bit of advice without charge.

Well, will commence by saying, if you have a good home and everything is lovely and prosperous, healthy, and nothing to mar your peace, you'd better stay there. That's our advice, and it's worth its weight in gold. If you are otherwise, if you are honest, want a place where you can get good free schools, good land to cultivate, good markets and those things appreciated by the honest, economical farmer, you can find it here. We want to insist on your coming to see us right now, because the worst kind of appearances will present themselves to you, you will see the soil dry deep down and dust flying like rain in the air, water scarce and a thousand setbacks noticeable. You say we are cranky, but we are not that far off the track yet. We are more interested in yourself than you are. You want to come while trees are springing the first bright, tender leaves, when the sweet flowers perfume the atmosphere on every hand, birds are dropping their coarse winter garments and donning their lovely plumage and sweet carols and melody are whirled on every breeze, everything is loveliness, joy and gladness. Well, that would be a good time to come if you only wanted to see these parts in all their grandeur and loveliness, but we want you to come while there is a drouth in the land and sorry crops are the go. Come and see the clouds while faces are sad and the farmer is behind on his prospects. If you agree to stop with us now we are sure to keep you until the grave-digger gets the last work on you. We are not feeling so good right now but we are ready for comparison at any season of the year. The farmer that works his crop, is sober and economical, generally gets there with both feet, but the lazy slouch is always in the mud here just as he is everywhere else. We have been getting in quite a number from other states who are merely prospectors, and who may after awhile become permanent citizens. More are on the road and we now want to keep the track hot until all the corners are filled with good solid, honest farmers.

Come along, farmer; young, old, little, big, lean or fat. Come and see us while the drouth is on. Come quick, before it is broken and the desert begins to blossom as the rose and everything from the red-bug to the muly bull gets on new energy and life. Come along and help us whoop up this dry land.

Residence Burned at Kingston.

Correspondence of the Gazette.

KINGSTON, HUNT COUNTY, TEX., Oct. 20.—About 2 o'clock this morning the residence of E. G. Cloar was totally destroyed by fire. Insured for $500, which will cover all loss. Supposed to be the work of an incendiary.

Malaria.

This disease yields quickly to the wonderful powers of P. P. P. (Prickly Ash, Poke Root and Potassium). People living in miasmatic countries should never be without P. P. P. A word to the wise is sufficient.

It is remarkable how cheap
Maddox, Ellison & Co.
Sell those beautiful
Rattan chairs. Get their prices
On all their furniture,
And it will astonish you
To see how low
Their prices are.
And they sell on the
Easy payment plan.

FAST WORK WITH THE MACHINE.

A Toledo Printer Sets 259,000 Ems Corrected Matter in Forty-Five Hours.

TOLEDO, OHIO, Oct. 18.—F. J. Smith, a practical printer operating a Mergenthaler linotype machine in the Commercial office, has performed some phenomenal work during the past week. On Tuesday night he set 47,900 ems corrected matter in eight hours' regular copy off the hook. Saturday night he set 49,500 ems corrected matter from regular copy off the hook in eight hours, being an average of 6187 ems per hour. His record for the week is 259,000 ems corrected matter, representing forty-five hours' work. Three hours were lost on Monday. The average for the week was 5755 ems per hour for forty-five hours. Mr. Smith's usual average is 5000 per hour. These figures are supported by affidavit of the operator, attested by the foreman of the news room.

Scrofula cured, even in its worst forms by P. P. P., and you will be strong and healthy in a short time by the use of P. P. P.

Everybody knows
The advantages and
Convenience of the famous
Windsor folding beds,
And, what is best of all,
Maddox, Ellison & Co.
Sell them on the
Easy payment plan.

A Youthful Horsethief.

Correspondence of the Gazette.

LUBBOCK, LUBBOCK COUNTY, TEX., Oct. 18.—Yesterday Mr. G. M. Boles, one of the hands on the ranch of the Western land and livestock company, a cattle company whose ranch is about eight miles southeast of this place, came in and made complaint against one Fred Whorry for horse theft. Whorry is a lad about seventeen years old who had been working on the above ranch for a short time, but was discharged by Mr. Boles a few days ago, when he proceeded to take one of the latter's horses and ride away. Mr. Boles thinks it probable that the boy is going under an assumed name. The horse was the property of the Western land and livestock company. Mr. W. M. Lay, our sheriff, is in search of the lad.

—Before retiring take Simmons Liver Regulator. Sick Headache.

Buy you a
Handsome folding chantel bed, and
The cheapest place
To trade is at
Maddox, Ellison & Co's.
Goods sold on the
Monthly installment plan.

The Reform Press.

SALINA, KAN., Oct. 21.—The Kansas Reform Press Association elected the following officers: A. C. Balmer, Salina Union, president; W. I. Waite, Lincoln Beacon vice-president; Dr. McLellan, Topeka, secretary. Resolutinos indorsing the Cincinnati platform, favoring a service pension for soldiers and sailors and the payment of the difference between greenbacks and gold during the late war to old soldiers, were adopted.

Sofa lounges and
Sofa chairs, the
Most beautiful assortment
On exhibition in the state of Texas at
Maddox, Ellison & Co's.
Goods sold on the
Easy installment plan.

Go to J. P. Woods for first class livery and most reliable rigs in the city.

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OCTOBER 31, 1891.

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THE

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FORT WORTH WEEKLY GAZETTE

12 Pages, 84 Columns, and another copy

FREE ONE YEAR

to any person you name

OUTSIDE THE STATE OF TEXAS.

The GAZETTE has for eight years been a willing and liberal worker in behalf of Texas, and now when the people of the state seem to have awakened to the necessity of effort and to the benefit to accrue to this state from a truthful and comprehensive representation of its resources and progress in agriculture, stock farming, mining, manufacturing, education, religion, etc., to the people of other states,

THE GAZETTE

MAKES THIS PROPOSITION.

Until October 31, 1891, for every subscription made to the WEEKLY GAZETTE for one year, another subscription to the WEEKLY GAZETTE for one year, or two subscriptions to the WEEKLY GAZETTE for six months, will be donated by THE GAZETTE and entered on our books, provided such donated subscriptions are sent to parties OUTSIDE THE STATE OF TEXAS, and provided the subscriber sends us the name, for one year, or two names for six months, to whom he wishes the WEEKLY GAZETTE sent outside the state. This offer applies only in cases where we receive One Dollar, the full amount of one year's subscription to the WEEKLY GAZETTE.

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You can get a first-class newspaper for one year and

HELP THE STATE OF TEXAS!

Address all orders and money to THE GAZETTE, Fort Worth, Tex. Sample copies free on application.

NULL AND VOID

AFTER

OCTOBER 31, 1891.