

ABSTRACTS OF RECENT DECISIONS.

SUPREME COURT OF THE UNITED STATES.¹INTERSTATE COMMERCE COMMISSION.²UNITED STATES CIRCUIT COURTS.³COURT OF APPEALS OF NEW YORK.⁴SUPREME COURT OF PENNSYLVANIA.⁵SUPREME COURT OF TEXAS.⁶SUPREME COURT OF APPEALS OF VIRGINIA.⁷SUPREME COURT OF APPEALS OF WEST VIRGINIA.⁸

BANKS.

Bankrupt estate's funds, deposited by the clerk of U. S. Dist. Ct., need not be kept separate by the bank from every other bankrupt estate's funds, similarly deposited, and the bank is not liable for paying checks beyond the amount of the funds of the particular estate, out of other estate's funds. The bank has a right to presume that the court was properly performing its duty as trustee in drawing the checks: *State Nat'l B'k, etc., v. Dodge*, S. Ct. U. S., January 23, 1888; 124 U. S. 333.

Deposit of cash may be recovered by the assignee for the benefit of creditors, without defalcation for the amount of commercial paper of the assignor, held by the bank, but not matured at the time of the assignment, because the status of the parties is fixed by the assignment: *Chipman et al. v. Ninth Nat'l Bank*, S. Ct. Penna., April 23, 1888.

Stockholder is not required by the National Banking Law to register his ownership, for the protection of his assignor of the stock, or to save harmless by reason of such former ownership; the obligation, if any, grows out of contract: *Le Sussier et al. v. Kennedy*, S. Ct. U. S., December 5, 1887; 123 U. S. 521.

BILLS AND NOTES.

Holder of a firm note cannot be met with the defense, that the note was made after the dissolution of the firm, unless it is also shown that the holder knew of the dissolution when he took the note: *Forepaugh v. Baker*, S. Ct. Penna., April 9, 1888.

Indorsement of a note made payable to "P. & W. in liquidation" by P., charges the assignee with notice of the dissolution of the firm of P. & W., and requires the assignee to prove the authority of P. to make the indorsement before W. can be held liable to the assignee: *Woodson v. Wood*, S. Ct. App. Va., February 9, 1888.

Transfer of a promissory note to avoid a defense, that the note

¹ To appear in 123 and 124 U. S.² To appear in 1 I. S. C. Rep.³ To appear in 34 or 35 Fed. Rep.⁴ To appear in 107 or 108 N. Y. Rep.⁵ To appear in 117 or 118 Pa. St. Rep.⁶ To appear in 67 or 68 Tex. Rep.⁷ To appear in 82 or 83 Va. Rep.⁸ To appear in 29 or 30 W. Va. Rep.

was given without any consideration, is effectual, unless the maker can also prove that the transferee had knowledge of the object of the transfer, or that the transferee was not a *bona fide* holder for value, without notice: *Forepaugh v. Baker*, S. Ct. Penna., April 9, 1888.

CHECKS.

Equitable assignment of funds is not an attribute of an ordinary check, neither accepted nor certified by the cashier as good; such check is simply an order which may be countermanded, and does not transfer any money to the credit of the payee, nor create any lien on the money which the holder may enforce against the bank: *The Florence M. Co. v. Brown*, S. Ct. U. S., January 23, 1888; 123 U. S. 385.

Memoranda or figures on the margin of a check, placed there by the drawer for his own information, are not notice to the bank to pay from a particular fund, and need not be regarded by the bank: *State Nat'l B'k, etc., v. Dodge*, S. Ct. U. S., January 23, 1888; 124 U. S. 333.

Stoppage of payment of an ordinary check may be directed by the drawer at any time before actual payment: *The Florence M. Co. v. Brown*, S. Ct. U. S., January 23, 1888; 123 U. S. 385.

CONSTITUTIONAL LAW. See *United States Courts*.

Consequential injuries, as defined in *Penna. R. R. Co. v. Lippincott* (see *ante*, p. 1 *sqq.*), so defined again, with the explanation that the word "injury" is only of that certain character that the damages arising therefrom, can be estimated and paid or secured in advance, as provided in the Const. Penna., or, in default thereof, an action brought at common law; corporations and individuals now standing on the same plane of responsibility: *Penna. R. R. Co. v. Marchant*, S. Ct. Penna., April 9, 1888.

The Fifth and *Sixth Amendments* to the Constitution, providing that no person shall be deprived of life, liberty, or property, without due process of law, and securing to the accused in criminal prosecutions trial by jury and compulsory attendance of witnesses in his favor, apply only to the United States, and not to laws and proceedings under the authority of a State: *In re Sawyer*, S. Ct. U. S., January 9, 1888; 124 U. S. 200.

Ex post facto laws, which are prohibited by the Constitution, are only those State laws which relate to crimes: *Id.*

McDonald v. State, *ante*, p. 171, as to constitutionality of State license laws for locomotive engineers, affirmed in principle on the same statute in *Smith v. Alabama*, S. Ct. U. S., January 30, 1888; 124 U. S. 465.

CONTRACTS. See *Fraud*.

Cancellation of an *executed* contract is the exertion of the most extraordinary power of a court of equity, to be exercised only in a clear case, where the complainant has been deceived and injured, by fraud and false representations manifestly established and certainly proved: *Union R. R. Co. v. Dull*, S. Ct. U. S., January 16, 1888; 124 U. S. 173.

Construction put upon a written contract by the acts of the parties, will prevail over the literal meaning of the written words: *District of Columbia v. Gallaher*, S. Ct. U. S., February 6, 1888; 124 U. S. 505.

CONVEYANCE.

Recitals in a deed, bind the parties and those claiming under them, but not mere strangers, claiming by adverse title, or by title anterior or paramount to the deed: *Sabariego v. Maverick*, S. Ct. U. S., January 23, 1888; 123 U. S. 261.

COURT OF CLAIMS. See *United States Courts*.CRIMINAL LAW. See *Constitutional Law—Jurisdiction*.DAMAGES. See *Constitutional Law*.

Exemplary damages may be recovered when the injuries have been inflicted in a wanton, malicious, gross, or outrageous manner by the employees of a corporation, whether or not the corporation had authorized or ratified the actions of their employees: *Phila. T. Co. v. Orbann*, S. Ct. Penna., February 27, 1888.

Value of county bonds placed in the hands of a contractor for a court-house, and by him sold without completing the house in time, whereby additional expense was put upon the county, is the amount of damage suffered, and that value is to be computed at the face of the bonds: *Millikin et al. v. Callahan County*, S. Ct. Texas, December 20, 1887.

EJECTMENT

Prior possession, when shown to be continuous, is sufficient for a recovery in ejectment, from a mere intruder or wrong-doer, or one entering during the possession, without right: *Sabariego v. Maverick*, S. Ct. U. S., January 23, 1888; 123 U. S. 261.

FRAUD.

Profits may be divided by one interested in a contract for the construction of a railroad, with an assistant engineer of the railroad company, where the engineer had no interest in the contract, when made, and did not represent the company in the making of the

contract, and, afterwards, whilst in the service of the company, the engineer had no connection with the supervision or control of the construction, or the ascertainment of the amount due to the contractor: *Union R. R. Co. v. Dull*, S. Ct. U. S., January 16, 1888; 124 U. S. 173.

INTERSTATE COMMERCE. See *Railroads*.

Underbilling the weight of freight or giving a false classification, so that less compensation is paid for carrying, is prohibited by the Act, and each carrier should hold every station agent responsible for the correctness of the weight and classification of freight received by him: *Re Underbilling*, The Commission, April 11, 1888.

JURISDICTION. See *United States Courts*.

Discretionary authority, delegated to any public officer or tribunal, when properly exercised, is binding upon the subject-matter, and the only questions which can arise between an individual, claiming a right under the acts done, and the public, or any person denying their validity, are the power of the officer and fraud in the claimant: *Sabariego v. Maverick*, S. Ct. U. S., January 23, 1888; 123 U. S. 261.

Courts of equity cannot, without an express statute, exercise any jurisdiction beyond the protection of rights of property, and cannot punish or pardon crimes and misdemeanors, or appoint or remove public officers; to assume such functions, or restrain or relieve against proceedings for the punishment of offenses or the removal of public officers, is to invade the domain of courts of common law, or of the executive or administrative departments of the government: *Ex parte Sawyer*, S. Ct. U. S., January 9, 1888; 124 U. S. 200.

LESSOR AND LESSEE.

Rent paid in advance of the day, and repairs, made with the consent of the then landlord, and to be deducted from the accruing rent, are binding upon a subsequent purchaser at sheriff's sale of the landlord's title: *Kost v. Theis*, S. Ct. Penna., January 30, 1888.

MASTER AND SERVANT. See *Fraud*.

PARTNERSHIPS. See *Bills and Notes*.

PLEDGE.

Possession of personal property, pledged for the security of a debt, must be given the pledgee, to create an effectual lien on the property: *Williams v. Gillespie*, S. Ct. Appeals W. Va., January 28, 1888.

PUBLIC OFFICERS. See *Jurisdiction*.

RAILROADS. See *Damages*.

License of a locomotive engineer, is not a regulation of interstate commerce, and a State statute requiring such license is valid: *Smith v. Alabama*, S. Ct. U. S., January 30, 1888; 124 U. S. 465. (So held in *McDonald v. Alabama*, ante, page 171, by the State court.)

Negligence of the carrier must be shown by the plaintiff who has accepted for his goods a bill of lading exempting the carrier from liability from loss by fire not occasioned by the carrier's negligence, and the goods have been destroyed by fire whilst in the carrier's possession: *Platt v. R. Y. R. & C. R. R. Co.*, Ct. App. N. Y., February 10, 1888.

REMOVAL OF CAUSES. See *United States Courts*.

STOCKHOLDER. See *Banks*.

TRUSTS AND TRUSTEES. See *Banks*.

Mortgages belonging to a trust estate, are taxable at the place of residence of the trustee, although the *cestuis que trustent* are residents of another State: *Price v. Hunter*, U. S. C. Ct., E. Dist. Penna., February 8, 1888.

UNITED STATES COURTS.

Jurisdiction of the United States Supreme Court to review the judgment of the highest court of a State, under § 709 R. S. U. S., depends upon the record showing that the trial court had denied a right guaranteed by the Constitution, a treaty, or a statute of the United States: *French v. Hopkins*, S. Ct. U. S., February 6, 1888; 124 U. S. 524.

Jurisdiction of the Court of Claims is limited to the cases permitted, and under the conditions imposed, by the Act of Congress: *U. S. v. Gleeson*, S. Ct. U. S., January 16, 1888; 124 U. S. 255.

Removal from the State court to the United States court, of a proceeding under the statutes of Colorado, for the appropriation of private property for public use, and to ascertain the damages, may be made on the ground of citizenship; it is a suit at law, within the meaning of the Constitution and Acts of Congress: *Searl v. School District*, S. Ct. U. S., January 16, 1888; 124 U. S. 197.

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