ABSTRACTS OF RECENT DECISIONS.

ACCIDENT INSURANCE.

"*Accidental*," as used in a policy, is properly defined as "happening by chance; unexpectedly taking place; not according to the usual course of things, or not as expected." *United States Mut. Accident Asso.* v. *Barry*, S. Ct. U. S., May 13, 1889.

Jumping from platform, four or five feet above the ground, whereby injuries are sustained which subsequently result in death, is sufficient to warrant a recovery under an accident policy; especially is this the case where the evidence shows that two companions of the insured had made the same leap immediately before him, and in his presence, and had alighted safely. *Id.*

ADMIRALTY.

Limited Liability Act of 1851 (Rev. Stat. U. S., Secs. 4283–5), which provides that the liability of a ship-owner "for any loss, damage or injury by collision, or for any act, matter or thing, loss, damage or forfeiture, done, occasioned or incurred, without the privity or knowledge" of the owner, shall in no case exceed the value of the interest of the owner, applied to damages for loss of life, and where the owner has taken appropriate proceedings to obtain the benefit of that Act, the person injured is barred of the right to maintain a separate action for such injuries; it makes no difference that the injury, although within the jurisdiction of the admiralty courts, happened within the technical limits of a county of a State, under whose laws the liability was sought to be enforced. *Butler* v. *Boston & S. S. S. Co.*, S. Ct. U. S., April 22, 1889.

ALIENS.

Exclusion of aliens from the United States may be made by Congress, even in times of peace, for any reason that may be deemed sufficient. *Chae Chan Ping* v. *United States*, S. Ct. U. S., May 13, 1889.

ATTORNEY-AT-LAW.

Employment at fixed salary of an attorney for a corporation, which salary, as well as the term of his employment, may be changed at the option of the latter, does not render illegal or improper a contract made by such attorney with the corporation for a special fee in a special case, no misrepresentation being made. *Bartlett* v. *Odd Fellows' Sav. Bank*, S. Ct. Cal., May 23, 1889.

BANKS AND BANKING.

Certificate of deposit in a Leadville bank was deposited for collection with a bank at Denver; the latter bank mailed the certificate to the bank, by which it was certified, stating that the inclosure was for "collection and credit;" not getting a response in due course of mail, the Denver bank sent a telegram of inquiry and received reply: "No such remittance received;" thereupon the Denver bank wrote to its depositor, directing him to get a duplicate cer-

tificate, but, before the letter was received, the Leadville bank had failed; the Denver bank was liable for the amount of the deposit. *German Nat. Bank of Denver* v. *Burns*, S. Ct. Colo., May 3, 1889.

BILLS AND NOTES.

Alteration of promissory note, without the knowledge of the maker, by adding after the name of the bank, where it is payable, the words "of Oak'd," the note being dated at Oakland and being made "payable at the First National Bank of this city," by filling in the rate of interest, which was left blank by the maker, and by writing the words "Receipt No. 124" at the end of the note, does not affect the validity of the note so altered. *First Nat. Bank of Oakland* v. *Wolff*, S. Ct. Cal., April 27, 1889.

CONTRACTS.

Covenant by assignor of the exclusive right to manufacture and sell a secret medicinal compound in certain States and Territories, that he will not manufacture or sell such compound in the territory named, coupled with an agreement by the assignees not to manufacture or sell it in any other territory, is not contrary to public policy, as being in restraint of trade. *Fowle* v. *Parke*, S. Ct. U. S., May 13, 1889.

COPYRIGHT.

Omission of year and name of the person taking out a copyright, or of the name only, in the statutory notice, will bar an action for infringement, even though the infringer took out the copyright himself and afterwards sold it to the complainant. *Thompson* v. *Hubbard*, S. Ct. U. S., May 13, 1889.

CORPORATIONS.

Agreement by incorporators of a proposed corporation to take the shares of one of the subscribers within a fixed time, if he should so desire, and refund his money, is valid in the absence of any fraudulent intent, although none of the subscriptions were to be paid in until all the stock should be reliably subscribed, and the subsequent subscribers were not parties to such agreement and had no knowledge that it had been made. *Morgan* v. *Struthers*, S. Ct. U. S., May 13, 1889.

DAMAGES.

Prospective damages may be recovered in an action against a municipal corporation for personal injuries sustained by falling into an excavation dug under the municipal authority. *Townsend* v. *City of Paola*, S. Ct. Kan., May 10, 1889.

Rupture, sustained by a man fifty-eight years of age and engaged in the piano trade, which required lifting, who had earned $300 per month prior to the accident, but had been unable to work at his business since, will warrant a verdict of $7,000 against the corporation, whose negligence caused the injury. *Weidekind* v. *Southern Pac. Co.*, S. Ct. Nev., May 23, 1889.

DOWER.

Value of widow's dower in lands aliened by her husband in his lifetime, is to be determined as of the time of valuation, deducting therefrom any increase which may have arisen from the labor and money of the purchaser. *Baden* v. *McKenny*, S. Ct. D. C., June 24, 1889.

ERROR.

Appeal by United States will lie to a judgment in the District Court, entered under the Act of Congress of March 3, 1887, giving that Court concurrent jurisdiction with the Court of Claims, where the claim does not exceed in amount $1,000, when such judgment is against the United States, even though it is only for $25 and costs. *U. S.* v. *Davis; U. S.* v. *Schofield*, S. Ct. U. S. May 13, 1889.

FIRE INSURANCE.

Arbitration clause in a policy, which provides that "in case of differences touching the loss or damage after proof thereof has been received in due form, the matter shall, at the written request of either party, be submitted to impartial appraisers, whose award in writing shall be binding on the parties," is too vague to give the insurer a right to demand arbitration, and a refusal by the insured of such a demand will not prevent recovery on the policy. *Case* v. *Manufacturers' Fire and Marine Ins. Co.*, S. Ct. Cal., May 31, 1889.

FIXTURES.

Pump and boiler placed by a railroad company upon land which it erroneously supposed to be its own, and used for several years for the purpose of pumping water from a well on the same land, may be removed, upon discovery of the error; such use does not constitute them fixtures. *Atchison, T. & S. F. R. R. Co.* v. *Morgan*, S. Ct. Kan., June 7, 1889.

GAMBLING CONTRACT.

Purchase on margin of cotton for future delivery, where the purchase and delivery of actual cotton is not contemplated by the parties, but it is understood between them that settlement is to be made by one party paying to the other the difference between the contract price and the market price at the time designated for delivery, according to the fluctuations of the market, constitutes a wager, and notes given for losses sustained by one of the parties in carrying such "futures," are void. *Embrey* v. *Jemison*, S. Ct. U. S., May 13, 1889.

LIMITATION.

Federal Courts will enforce State statutes of limitation, in the absence of Congressional legislation. *Michigan Ins. Bank* v. *Eldred*, S. Ct. U. S., May 13, 1889.

NEGLIGENCE.

Barb-wire fence, if negligently constructed, will render the owner liable for injuries occasioned thereby to the domestic animals of others, although the fence is entirely on his own land. *Loveland* v. *Gardner*, S. Ct. Cal., May 28, 1889.

PARTNERSHIP.

Special partner is made liable to creditors as a general partner by a failure to comply with the statutory requirements relating to special partnerships, but such failure does not change the special into a general partnership. *Abendroth* v. *Van Dolsen*, S. Ct. U. S., May 13, 1889.

PRACTICE.

Imperfections in the pleadings of a cause are cured by verdict. *Palmer* v. *Arthur*, S. Ct. U. S., May 13, 1889.

PUBLIC OFFICERS.

Affidavit of United States Deputy-Surveyor, in regard to the manner in which he has fulfilled a contract for surveying, as required by Act of Congress, cannot be made before either a notary public, or a commissioner of the United States Circuit Court. *U. S.* v. *Hall; U. S.* v. *Reilly*, S. Ct. U. S., May 13, 1889.

TAXATION.

Exemption from taxation, granted by the charter of a railroad company, does not pass under a conveyance of its "property and franchises" in consequence of a judicial sale. *Pickard* v. *East Tennessee V. & G. R. R. Co.*, S. Ct. U. S., May 13, 1889.

TENDER.

Certified check was tendered in payment of a disputed balance, and, upon being refused, was deposited in Court for the purpose of keeping the tender good; the failure of the bank, pending the suit, did not relieve the debtor from payment of the amount admitted by him to be due. *Larsen* v. *Breene*, S. Ct. Colo., April 19, 1889.

TREATIES.

Violation of treaty with a foreign power is no objection to the validity of an Act of Congress; treaties may be modified or repealed by Congress in the same manner as statutes, and the wisdom of such modification or repeal is not a judicial question. *Chae Chan Ping* v. *United States*, S. Ct. U. S., May 13, 1889.

WATER-RIGHTS.

Non-user for a long series of years, by a corporation, of the exclusive right given by its charter to all the waters of a non-navigable stream, and the use and control of the same for mechanical, agricultural, mining and municipal purposes, will estop it from asserting such right to the exclusion of persons who have, in the meantime, acquired rights to the use of such stream by actual appropriation and use, under the general laws of the State. *Platte Water Co.* v. *Northern Colorado Irrigation Co.*, S. Ct. Colo., May 3, 1889.

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