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BANKRUPTCY—ALIMONY—EFFECT UPON—IN RE NOWELL, 99 Fed. Rep. 930.—*Held,* arrears in alimony upon which execution had not issued, did not in Massachusetts constitute a probable debt which a discharge in bankruptcy would bar. This is because its susceptibility to modification prevents its being a fixed, absolute liability. *Kerr* v. *Kerr* (1897) 2 Q. B. 439; *In re Lachemeyer*, Fed. Cas. No. 7966; *In re Shepard*, 97 Fed. 187; contra, *In re Houston* (D. C.) 94 Fed. 119, following the Kentucky law; *In re Van Orden* (D. C.) 96 Fed. 86, following New Jersey law, and *In re Challoner*, 98 Fed. 82, the law in Illinois.

BILLS AND NOTES—INNOCENT PURCHASERS—WRITTEN INSTRUMENT—DENIAL OF EXECUTION—WARMAN ET AL. v. FIRST NATIONAL BANK OF AKRON, OHIO, 57 N. E. 6 (Ill.).—The bank discounted two notes for appellant and gave credit to the payees thereon. In an action by the bank to recover it was *held,* that in order to prove that a bank discounting a note is an innocent purchaser, it is not enough to show that the proceeds were placed in the payee's credit, by way of deposit, but it must also be shown that the payee was not indebted to the bank at the time, and that he has not since then and before notice to the bank of the defenses to the note, withdrawn his account. Magruder, J., dissenting.

That the bank had possession of the notes was prima facie sufficient proof that it had acquired them bona fide for value, in the usual course of business. *Palmer* v. *Bank*, 78 Ill. 380. Possession of the notes indorsed in bank by the payee was prima facie evidence that the bank was their proper owner, and nothing short of fraud would have sufficed to overcome the effect of such evidence, or invalidate the title thus shown. *Collins* v. *Gilbert*, 94 U. S. 753.

CONSTITUTIONAL LAW—DUE PROCESS—ORDINANCE AS TO LICENSE FOR SALE OF CIGARETTES—DISCRETION OF MAYOR—GUNDLING v. CITY OF CHICAGO, 20 Supt. Ct. Rep. 633.—The city of Chicago passed an ordinance regulating the sale of cigarettes and imposing a license tax of $100, the fitness of the applicant to be determined by the mayor. Plaintiff was convicted for selling without a license.

Held, not to be a violation of the 14th amendment requiring due process of law, the power of the mayor was discretional and not arbitrary as in *Yick Wo* v. *Hopkins*, 118 U. S. 356, and that also whether a license fee of $100 partook of an excise tax or not, it violates no provision of the Federal Constitution, and was authorized by State.

CONSTITUTIONAL LAW—PERSONAL LIBERTY—ADVERTISING BUSINESS—USE OF FLAG—RUHSTRAT v. PEOPLE, 57 N. E. 41 (Ill.).—The Act April 22, 1899 (Ill), prohibited the use of the national flag for any commercial purposes, or as an advertising medium, and plaintiff was convicted for violation of that act and brings error. *Held,* the act was unconstitutional. Cartwright, C. J., Wilkins and Carter, J. J., dissenting. See Comment.

CONSTITUTIONAL LAW — SUNDAY LABOR—CLASS LEGISLATION—PETET v. STATE OF MINNESOTA, 20 Supt. Rep. 666.—The State of Minnesota passed a statute forbidding all labor on Sunday except such as was of charity or necessity, and further provided that keeping open barber shops on Sunday was not to be deemed within the exceptions. Under this, plaintiff was tried and convicted for keeping open on Sunday. *Held,* such act was valid, being within

the wise discretion of the State's police power, and was not class legislation. *Phillips v. Innes*, Clark F. 244; *State* v. *Frederick*, 45 Ark. 347; *Orient Ins. Co.* v. *Daggs*, 172 U. S. 557.

DAMAGES—TORTS—INTEREST ON LOSS—RECOVERY—N. Y., N. H. & H. R. R. Co. v. ANSONIA LAND & WATER Co., 46 Atl. Rep. 157 (Conn.).—Owing to negligence of defendant a section of railroad track was washed away, thus necessitating an expenditure by plaintiff of a sum A for repairs and a sum B for transfers meanwhile. The defendant might have known the amount of A at the time of the injury. In an action to recover interest for delay in settlement was allowed on A from date of accident; and also interest on B from the date the amount became known to defendant. *Held*, no error.

Whenever one has knowledge or means of knowledge as to the amount of damage another has suffered by his fault, there is an obligation of prompt compensation resting on him, and the sufferer is not bound to inform him, unasked, as to the amount of his loss, Under such circumstances if a suit has to be brought, damages for the delay may be added. *Parrott* v. *R. R. Co.*, 47 Conn. 575; *Hubbard* v. *R. R. Co.*, 70 Conn. 563. As B, the cost of transferring passengers and mail, was not a sum definitely ascertainable until the bill of particulars was filed, after that date damages for the delay were allowable. *Tighlman* v. *Proctor*, 125 U. S. 136; *New Haven Steam Saw Co.* v. *City of New Haven*, 72 Conn. 276, 287. Not only was the granting of the interest a proper exercise of discretionary power by the court, but the plaintiff had a right to such allowances.

EVIDENCE—ORAL TESTIMONY—WRITTEN AGREEMENT—DRYER v. SECURITY FIRE INS. Co., 82 N. W. Rep. 494 (Ia.).—Where the owner of personal property, being unable to read, was told by an insurance agent that he could move his property after taking out insurance without loosing his protection, but the written agreement in the policy forbade such removal. *Held*, the oral evidence admissible to vary the terms of the written agreement.

We have found no precedent with facts identical with those of the present case; similar decisions have been made, but the statements admitted to vary the terms of the written policy were contained in the application. The present case in admitting the verbal declarations of the agent for that purpose seems clearly a departure. *McComb* v. *Ins. Co.*, 83 Iowa 247; *Stone* v. *Ins. Co.*, 28 N. W. 47.

INTERSTATE COMMERCE—STATE REGULATION—CLEVELAND, CINCINNATI, CHICAGO & ST. L. R. R. v. ILLINOIS, 20 Supt. Ct., Rep. 723.—The State of Illinois passed a statute providing that all passenger trains should stop a sufficient length of time at the railroad stations of country seats to receive and let off passengers with safety. The railroad alleged that local traffic was already adequately provided for and such a requirement hampered their through trains. *Held*, it did constitute such a burden; that after local requirements have been satisfied, railroads have the legal right to adopt special provisions for through traffic, interference with which is unreasonable.

This case is a good illustration of what is and what is not a direct burden upon interstate commerce. The prior cases are collated and this seems to be in conformity with them.

INSURANCE—KNOWLEDGE OF AGENT—NORTHERN ASSUR. CO. OF LONDON v. GRAND VIEW BLDG. ASSOC., 101 Fed. 77—When an insurance company issues a policy containing a condition that it shall be void if there is other insurance on the property without consent of the company and unindorsed on the policy, and the agent who issues it knew of the existence of the other insurance but did not indorse it. *Held*, such knowledge estopped company from enforcing the condition.

In *Carpenter* v. *Ins. Co.*, 16 Pet. 495, it was held that in order to invoke the doctrine of estoppel, the agent must endorse on the back of the policy the concurrent insurance according to the terms. This decision has never, to our knowledge been overruled. It goes on the principle that strict compliance with the words of the policy are necessary. In the light of more recent decisions and now resting on more substantial grounds, the opinion of the court seems good. *Insurance Co.* v. *Norwood*, 69 Fed. 71, 16 C. C. A., 136.

REMOVAL OF CAUSES—PROCEEDING FOR PROBATE OF WILL—WAHL v. FRANZ, 100 Fed. 680.—*Held*, a proceeding for the probate of a will is not a "suit of a civic nature at law or in equity," so as to be cognizable in the first instance by the Circuit Court of the United States or removable thereto from a State court.

The real question here is, has the United States Court concurrent jurisdiction with State courts in an appealed contest as to validity of a will involving the value of $20,000. and the parties to which are citizens of different states. *Gaines* v. *Fuentes*, 920 U. S. 10, seems to say that the Federal Court has such jurisdiction, while the decision *in re Frazer*, Fed. Cas. W. 5,068 would seem to hold contra. The point is not as yet fully and satisfactorily decided.

STATUTES—CONSTRUCTION—EAU CLAIRE NAT. BANK vs. BENSON, 82 N. W. REP. 604 (WISC.).—Where a certain statute, rather ambiguous in meaning, was judicially construed by the Court of final resort shortly after its passage, *Held*, an inquiry, subsequently, as to whether this construction was right or wrong, could not be made.

The Court takes the position that when a statute is judicially interpreted shortly after its passage, that such interpretation should be equally noticed by the people of the State as the statute itself, hence, this interpretation whether correct or otherwise becomes part of the law and can not be inquired into, or corrected. *State* v. *Ryan*, 74 N. W. 544. The present case seems to go very far in the direction of giving importance to such decisions; the general rule being that they are strong evidence of the legislature's intention, while in the case under discussion such evidence is considered conclusive proof of this intention. Potter's Dwarris on Stat., 47–51.

STRIKE—INJUNCTION—COMBINATIONS OF WORKMEN—PICKETING—EQUITY JURISDICTION—CUMBERLAND GLASS MFG. CO. v. GLASS BOTTLE BLOWERS' ASSN. ET AL. 46 ATL. 208.—Evidence tended to show that strikers had resorted to picketing, had from time to time forcibly interfered with persons seeking to be employed in their places, and had also occasionally attacked the property of plaintiff. *Held*, that in such a case a court of chancery has jurisdiction to enjoin a continuing trespass or injury to property, though such trespass or injury may also involve a crime.

The court simply ignored the crime involved: "Picketing" has usually been held unlawful. *Beck* v. *Prot. Union*, 77 M. W. 13; *Am. Steel and Wire Co.* v. *Wire Uuions, etc.*, 90 Fed. 608; *Lyons* v. *Wilkins*, Eng. let. of App. 1899; *Contra*, *Winslow Bros. Co.* v. *Building Trade Council*, Case and Comment, Aug., 1898. "The decision of the question must depend upon the circumstances surrounding each case." A permanent guard in front of citizens' houses or factories is in itself a nuisance. The interference with prospective employees by the strikers warranted an injunction as "each man is bound to observe the right of the employee and employer to seek employment or to employ undeterred by coercive influences."

TAX ON REFRIGERATOR CARS—INTER-STATE COMMERCE—PRESUMPTION IN FAVOR OF ASSESSMENT—UNION REFRIGERATOR CO. v. LYNCH, 20 Supt. Ct. Rep. 631—Plaintiff was a Kentucky corporation, doing a business of furnishing refrigerator cars. It had no offices in Utah, and whenever its cars happened to be there, they were in transit or merely to stop or load. Utah laid a tax upon

the average number of cars. *Held*, the state had this right, *Amer. Rep. Co.* v. *Hall*, 174 U. S. 70; and as the complaint did not charge that more than the average number of cars had been taxed, it will be presumed that assessment was regular.

WAR REVENUE TAX—EXPRESS COMPANIES, 20 Supt. Ct. Rep. 695. *Held*, under the war revenue tax of 1898, making it the duty of every express Company to issue a bill of lading, with a one cent stamp duly attached and cancelled, the Express Company could raise its charges to meet the tax and thus shift the burden upon the shipper. The court grounds its decision on the fact that there is nothing in the act that leads to the inference that it is unlawful to shift the tax; in fact being an indirect tax, it leads to a contrary inference. The reasonableness of the increased charge was not before the court, and the right of the Company to shift the burden was decisive of the question.

But Harlan and McKenna, J. J., in dissenting, held that the act made it the duty of the Company to provide and issue at his own expense, the bills with stamps attached and cancelled, but that whether the Company could then raise its charges to shift the burden presented no Federal question.

WILLS—COURTESY—DEVISE TO HUSBAND—ELECTION—HUSBAND'S ADMINISTRATION—LEGACIES—KERRIGAN ET AL. V. CONNELLY, 46 Atl. 227.—Testatrix devised a life estate in common to her husband and children in a portion of her realty, subject to payment of legacies out of rents. Husband, who received no other bequest, on failure of her executors, administered her estate and received all said rents. *Held*, that his action showed no election to take under the will in lieu of his more valuable right of tenancy by the curtesy.

The land, at his death, was held subject to the payment of the legacies, although he had received a sufficient amount in rents to satisfy them, as he did not receive said rents as administrator *c. t. a.* The burden of showing election rests on the party asserting it. *Worthington* v. *Wigonton*, 20 Beav. 67, 74. The mere acceptence of an appointment as an executor will not in general be deemed a waiver of curtesy. *Tyler* v. *Wheeler*, 160 Mass. 206, 35, N. E. R. 666.