# RECENT CASES.

*Carriers—Injury to Passenger leaving train—Contributory negligence.—Chicago, etc., R. R.* v. *Lowell*, 14 Sup. Ct. Rep. 281. Plaintiff, on alighting from defendant's car, was injured by a train passing on the other track. The defendant had posted conspicuous notices in its cars as to the side on which passengers should alight, but this notice was disregarded by plaintiff, who alighted on the forbidden side. It was shown that the notice was habitually disregarded by passengers, and that the company's servants did not enforce it. Held, that the defendant having permitted its notice to be disregarded, could not sustain a claim of contributory negligence on the part of the plaintiff.

*Common Carriers—Delay—Damage by Fire.—Reid* v. *Evansville & T. H. R. Co.*, 55 N. E. Rep. 703. This action was brought to recover the value of a car load of flour, which it was alleged was delivered to a common carrier for shipment, but was, by the negligent delay of the carrier in transporting the same, destroyed by fire. Held, that where bill of lading stipulates against the liability for damages by fire, a shipper cannot recover for goods destroyed in a fire not shown to have resulted from company's negligence, where there was a negligent delay in forwarding goods, and when such delay was not a proximate cause of the injury.

*Common Carriers—Delay—Notice—Special Damages.—Wells, Fargo & Co.* v. *Battle*, 24 S. W. Rep. 353 (Tex.). Defendant caused to be delivered fruit trees, vines and flowers, and an order-book to the agent and partner of plaintiff to be transported to him in Ballinger, Texas. The order-book was delayed in the transit, although the other goods were duly delivered, for an unreasonable time, so that the defendant was unable to deliver them to the various parties to whom he had contracted to sell them, and this suit was brought to recover the losses which he had suffered thereby. The court, applying the principle of *Hadley* v. *Boxendale*, 9 Exch. 353, held that only such damages were recoverable as might reasonably have entered into the contemplation of both parties when the contract was made, and the carrier, to be liable, must have had notice of the special circumstances whereby loss might be incurred by non-delivery. Such notice having been given to the proper agent of the company, the carrier would then be liable for special damages if he negligently failed to deliver.

*Contract for Skilled Labor—Evidence of Custom—Damages.—Baltimore Base-ball Club and Exhibition Co.* v. *Pickett*, 28 Atl. Rep. 279 (Maryland). Where a professional base-ball player has engaged to play for the season under a special contract and during the season is discharged for want of ability and skill, he has an action for damages provided he can prove that he possessed the skill of the ordinary professional base-ball player. Evidence of a custom to discharge incompetent players on ten days notice is inadmissible if no such provision is made in the contract, as the player has no reciprocal right to abandon the club at will.

*Dower—Foreign Divorce by Husband.—Doerr* v. *Forsythe*, 35 N.E. Rep. 1055 (Ohio). A wife on separation from her husband signed an agreement to release all right of dower, for a certain consideration, found to be unreasonable. The husband afterwards moved to another State and obtained a divorce, publication having been duly made, as required by the statutes of that State, but the wife had no actual notice, until after his decease. He remarried and with his second wife, conveyed certain real estate, which subsequently passed into the defendant's hands. As the first wife had no opportunity to defend, the decree merely restored husband to status of an unmarried man, but the court, having no jurisdiction of the wife's person, could not affect such rights as she had acquired in her husband's property, and therefore her administratrix was entitled to dower from time of filing petition to day of her decease.

*Evidence—Proof of Handwriting.—Hickory* v. *U.S.*, 14 Sup. Ct. Rep. 334. On a criminal trial a paper was put in evidence and testified to as being in the handwriting of the prisoner. The prisoner, being called in his own behalf, denied that the paper was written by him. His counsel offered a paper, which the prisoner testified he had written at the table in court that day to compare with the paper offered in evidence against him. Held, that the paper written in court, having been specially prepared for the purpose of comparison, was rightly excluded.

*Evidence—Weight and Conclusiveness.—Farley* v. *Hill*, 14 Sup. Ct. Rep. 187. Plaintiff claimed a joint interest in a purchase of Railway bonds to a large amount under an alleged parol contract. Held, that the evidence of two witnesses in support of the contract was not sufficient as against the positive denial of one witness, coupled with the fact that in a transaction of such magnitude, there were no letters or memoranda produced relating to it. The non-existence of the contract being established on this ground, it

was not necessary to decide whether such contract was within the statute of frauds.

*Husband and Wife—Liability of Husband for Necessaries.—Inhabitants of Town of Sturbridge* v. *Franklin*, 35 N.E. Rep. 669. The liability of a husband, where a town brings action to recover from him amount paid for aid, furnished to his wife as a pauper, depends upon the same facts as his liability for necessaries furnished by an individual for the support of his wife while she is living apart from him, with his consent, or for a justifiable cause.

*Insurance Agency—Right of Termination.—Stier* v. *Imperial Life Ins. Co.*, 58 Fed. Rep. 843 (Mo.). Action was brought by an insurance agent for breach of contract against defendant by whom he was employed to solicit renewal policies on commission. It was held, in the absence of any agreement of employment for a definite period of time, that the contract right of the plaintiff to the commissions did not make his agency an agency coupled with an interest, and might be determined by defendant at will.

*Landlord and Tenant—Growing Crop—Sale for Taxes—Title of Purchaser.—Hazlett et al.* v. *McCutcheon et al.*, 27 Atl. 1086 (Penn.). A landlord, at a sale under a distress warrant against his tenant for arrears of rent, purchased the tenant's growing crop of wheat, and took possession of the leased premises. It had been the duty of the tenant to pay the taxes on the estate, but he had not done so, and the crop of wheat was accordingly sold, without the knowledge of the landlord, to pay the delinquent taxes, and the purchaser, when the grain was ripe, cut and harvested it. Landlord brought suit against the subsequent purchaser, but the court held that title was in the subsequent purchaser, though the lease required the tenant to pay the taxes.

*Liability of Bailee — Special Deposits — Negligence.—Gray et al.* v. *Merriam*, 35 N. E. Rep. 810 (Ill.). Plaintiffs in error were gratuitous bailees of United States bonds, which were stolen by their cashier, who had access to them to cut off interest coupons as they fell due. They knew he was speculating in grain. Held, that they were guilty of gross negligence and liable to the bailor.

*License Laws—Nuisance—Action for Damages.—Haggart et al.* v. *Steplin et al.*, 35 N. E. Rep. 997 (Ind.). An action of damages was brought against the keeper of a saloon, and his lessor, situated in a quiet part of the city the residents of which objected to its establishment on moral grounds and because it diminished the value

of contiguous property, being a nuisance. Held, that the owners of said property had a sufficient cause of action, and that a perpetual injunction against the continuance of the saloon might be properly granted.

*Patents — Infringement — Reconstructing Electric Lamps. — Edison Electric Light Co., et al.* v. *Davis Electrical Works*, 58 Fed. Rep. 878 (Mass.). An injunction was granted to restrain defendant from infringement of letters patent held by plaintiff who was patentee of the Edison incandescent electric lamp. The infringement consisted in breaking a hole in the glass bulb of the lamp, inserting a new filament with its ends inserted in platinum sleeves, and closing the aperture after having exhausted the air from the receiver. It was held that the lamp is an organic whole lasting only as long as the carbon filament exists, and its identity as a structure is destroyed as soon as the bulb is broken off.

*Partnership—Individual dealings by Partner.—Latta* v. *Kilbourn*, 14 Sup. Ct. Rep. 201. An agreement between the members of a firm of real estate brokers engaged in negotiating the sale and purchase of real estate for the account of others, that any information concerning bargains in real estate obtained by one partner shall be communicated to the firm before being acted upon by the partner for his individual profit, does not so enlarge the scope of the partnership business as to render a partner who has made speculative purchases of real estate jointly with a party not a member of the firm, liable to the firm for the profits thus made. A partner may engage in individual transactions outside the scope of the firm's business, although he uses therein the skill and knowledge and information acquired as a member of the firm.

*Partnership—Unauthorized Debts—Power of one Partner to bind Firm. —Granby Mining and Smelting Co.* v. *Laverty et al.*, 28 At. Rep. 207 (Penn.). By a provision in articles of partnership all checks were to be signed by both partners, notice of which was given to their bank. Shortly before dissolution, one member, without the knowledge of the other, drew and executed alone some checks, for purposes not entered on the books. Held, that as against a garnishee, the bank was entitled to credit for money paid on these checks only so far as it could show that the money was used to pay obligations of the firm.

*Payment—Principal and Agent.—Long* v. *Thayer*, 14 Sup. Ct. Rep. 189. A purchaser of real estate, contracting with the agent of the vendor, gave promissory notes for the amount of the purchase,

payable to the agent "or bearer." The vendor died a few days after the contract was made. Held, that the notes being payable to the agent "or bearer," and being in his possession at maturity, payment to the agent by the purchaser of the amount of the notes after the death of the principal was a valid payment, and entitled the vendee to a deed.

*Railroad Companies—Injury to Trespasser—Right to Recover.—Hot Springs R. R. Co.* v. *Dial*, 24 S. W. 500 (Ark.). A boy of fifteen was injured while obeying the request of the conductor to turn the brake of a car. Held, that he is not entitled to recover, unless the railroad company has given the conductor express authority to employ help, or clothed him with apparent authority, if the circumstances of the case show no exigency requiring extra help, and no gross or willful negligence is proved.

*Removal—Diverse Citizenship—Probate of Wills.—In re Cilley*, 58 Fed. Rep. 977 (C. C. Dist. N. H.). Petition for the removal of a probate appeal on the ground of local prejudice and diverse citizenship. The court held that the right of removal was restricted to the class of cases in which original jurisdiction was conferred. The right of removal on grounds of diverse citizenship was limited to suits of civil nature "at common law or in equity" and a proceeding to establish and probate a will did not come under this head, and was therefore not removable.

*Telegraph Companies — Damages — Mental Suffering.—Telegraph Co.* v. *Saunders*, 14 Southern Rep. 148 (Fla.). It was held that the measure of damages for delay in delivering a telegram is the principle of compensation, and that where mental suffering is the only damage shown, only nominal damages, or the price paid for sending the message, can be recovered.

*Trust Funds—Deposits in Banks.—Knight* v. *Fisher*, 58 Fed. Rep. 991. The plaintiff, a holder of trust funds to the amount of two thousand dollars, left the same for safe keeping with a member of a firm, who deposited the money in a bank to the credit of his firm. The bank failed, and the defendant, who had been appointed receiver, attempted to have the trust fund set off against the firm for debts previously contracted. The whole amount had remained in the bank continuously and the bank had no knowledge that trust deposits and firm deposits had been mingled. The court held that it was sufficient to find that the property was the plaintiff's in order that his right to follow and recover it might be enforced in equity.