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## RECENT CASES.

*Sales—Action on Contract—Defenses—Fraud.—Fox v. Tabel*, 34 Atl. Rep. 101 (Conn.). In an action for breach of contract of sale, the plea that the plaintiff fraudulently represented himself as the agent of a third person in order to secure the execution of the contract, and that this third person had released the defendant from all liability is a good defense.

*Notice—Record of Mortgage—Bona Fide Purchaser.—Zear v. Boston Safe Deposit and Trust Co.*, 43 Pac. Rep. 977 (Kan.). When the registrar of Deeds wrongly recorded a mortgage of property as for \$100 instead of \$1,000, and the property was thereafter sold under a deed reciting the mortgage correctly and correctly recorded, and thereafter the property was again sold and the deed thereof incorrectly recited the mortgage as being for \$100; it was held that the purchaser under the last deed could not set up the fact that he was a bona fide purchaser in a suit by the mortgagee to foreclose the mortgage, he being charged with notice of the mistake in the second deed.

*Carriers—Agency—Negligence in Sale of Ticket.—Scott v. Cleveland C. C. & St. L. Ry. Co.*, 43 N. E. Rep. 133 (Ind.). A ticket agent for two different railroads negligently issuing a ticket over one when the application and payment were for a ticket over the other, as regards the applicant is the agent for the road to which the application was made and the road over which he issues the ticket and for which he is also agent, is not liable to the purchaser for the consequences of his negligence.

*Gambling Contracts—Stocks Bought on Margins—Validity.—Dillaway et al. v. Alden*, 33 Atl. Rep. 981 (Me.). Contracts for purchase and sale of stocks on margins are not illegal in case final balance is to be liquidated by actual delivery of remaining stocks.

*Corporations—Banks—Stockholders' Liability.—Receivers.—Wilson et al v. Book et al*, 43 Pac. Rep. 939 (Wash.). Where the constitution of a State declares that the stockholders of any banking corporation shall be personally and individually liable up to twice the amount of their stock, the liability of the stockholders is a secondary one, and cannot be enforced by the creditors, but

should be enforced by suit at the instance of the receivers, after disposing of all other assets of the insolvent bank.

*Sunday Travel—Injury to Passenger—Liability of Carrier.*—*Horton et ux. v. Norwalk Tramway Co.*, 33 Atl. Rep. 914 (Ct.). Plaintiff was injured while riding for pleasure on Sunday, and defendants claimed that only nominal damages could be recovered as the injury arose in the performance of an illegal contract, but the Court held that the general statutes of the State construed with the later public acts, did not prohibit Sunday travel to such an extent as to exempt carrier from liability for injury to passenger.

*Eminent Domain—Measure of Damages for Street—Easement.*—*In re* opening One Hundred and Sixteenth street, 37 N. Y. Sup. 508. On a question as to whether the correct principle was adopted in making award to property owners of a full value of land taken for street purposes subject to no easement public or private, it was held that the measure of damages to the owner of the fee for land taken for such purposes, which is subject to an easement, is its value subject to the easement.

*Limitation of Actions—Personal Privilege.*—*Lewis v. Buckley*, 19 Southern Reporter, 197 (Miss.). The appellant, while testifying in the court below, said, referring to the statute of limitations: "I never pleaded it in any case before and I do not plead it in this case." The court held that he had clearly withdrawn the defence; that no consideration was required for the withdrawal of a plea of this kind, and that the issue could not be further considered.

*Insolvent National Bank—Distribution of Assets.*—*Davis v. Elmira Sav. Bank*, 16 Supreme Court Rep. 502. By this decision the rule long adhered to in New York State giving banks a preference in the distribution of assets of an insolvent bank is held to be in conflict with the Federal Statute requiring the assets of an insolvent national bank to be distributed ratably among the creditors.

*Notice—Indictment for Selling Intoxicating Liquor—Local Option Law.*—*Lowery v. State*, 34 S. W. Rep. 956 (Tex.). Where a county passed local option laws, and a person was charged with selling liquor by an indictment which simply set up the fact that he had sold and given away liquor unlawfully, such indictment was held fatally defective, as the courts cannot notice judicially