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OREGON SUPREME COURT DECISIONS

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Leadbetter v. Hawley, Multnomah County.

F. W. Leadbetter, appellant v. W. P. Hawley, respondent. Appeal from the circuit court for Multnomah county. Hon. John B. Cleland, Judge. Argued and submitted July 19, 1911. H. M. Calk for appellant. (Calk & Calk on the brief). Warren E. Thomas and John M. Gearin for respondent. (Chamberlain, Thomas & Kraemer and Dolph. Malloy, Sinos & Gearin on the brief). Burnett, J. Reversed.

to enforce the contract. None of these things, however, appear. On the contrary the plaintiff wishes to retrace his steps and to be restored to what is his own irrespective of whatever contract was attempted by the parties, or either of them, whether legally or illegally. A contract becomes executed when all is done that its terms require to be performed. Until that situation is attained the contract is executory. The contract in question contemplated something to be done by the plaintiff, to-wit: the delivery of the bonds. It also had in view something to be done by the defendant, viz: voting his stock as directed by plaintiff. As to the part to be performed by the defendant the contract is clearly executory for he makes no pretension that he ever voted or was directed how to vote in pursuance of the agreement. The contract does not claim to have carried out his part of the agreement in the least. The principle underlying such affairs is that until the illegal contract is executed the law will aid in the recovery of the money paid or the property delivered in part performance of the illicit enterprise, but when it is fully accomplished the courts will be closed to both parties and will leave them without remedy. This doctrine is illustrated in Willis v. Hoover, 9 Or. 418; Bernard v. Taylor, 23 Or. 416. Other decisions of this court involving matters of this kind and refusing relief are where the plaintiffs sought to enforce the illegal contract as in Pacific Livestock company v. Gentry, 35 Or. 275 or where the unlawful agreement was fully executed as in Ah Doon v. Smith, 25 Or. 89. There is testimony in the record upon which the plaintiff was entitled to go to the jury upon the question of fraud alleged in his complaint. On the defendant's theory of the contract being against public policy, the plaintiff had not yet passed the place of repentance, the agreement being executory; and as he is proceeding in discontinuance of the contract he had a right to be heard before the jury and take its verdict. The judgment is reversed.

ANOTHER UPRISING ON ISLAND

[UNITED PRESS LEASED WIRE.] Havana, August 1.—General Acevedo, veteran of a dozen wars, took the field today with 12 followers in an attempt to stir up a revolution. Troops have been sent in pursuit, as it is feared the movement may become dangerous, if allowed to continue unchecked. Before leaving Acevedo, who headed an uprising in Pinar Del Rio a year ago, issued a manifesto, denouncing the administration of President Gomez, and adjuring all Cuban patriots to rise and overthrow the present government. Acevedo also threatened to lay the island in ashes unless Gomez resigned within 15 days. The brain-using business man is the profit-maker; since farming is a business, the more brains the more profit. Making a living is the necessary foundation to make a life.

NOTICES WERE NOT POSTED AS LAW REQUIRES

SUPREME COURT DECLARES BOND ELECTION VOID ON THIS ACCOUNT—MANY OTHER LEGAL TANGLES STRAIGHTENED OUT.

Because the officials of the city of McMinnville failed to comply with the city charter by posting three instead of one notice calling an election for the issuance of municipal bonds amounting to \$10,000 the supreme court this morning declared the election void. The suit was commenced in the circuit court by G. S. Wright and it was for the purpose of restraining the mayor and recorder from issuing the bonds. The lower court dismissed the action, but the supreme court declined to sustain its action. In writing the opinion Justice Moore says that while it may be true that legal voters can be informed on a subject through the newspapers that for all that the law must be complied with.

Other Decisions. The judgment of the lower court in the case of Annie P. Sullivan, administratrix for the estate of Wm. H. Sullivan, deceased, was reversed. The action was begun against Robert Wakefield and Wm. Jacobson and it object was to recover damages for the death of Sullivan by a falling tree, it being alleged that death was brought about through the negligence of the defendants. The plaintiffs won in the lower court. A rehearing was granted in the case of S. W. Miles, appellant against V. Hemenway, a suit from Lane county. The judgment rendered by the lower court in the suit brought by Elmer Wallace against Mary E. McDaniel, an action involving real property, and appealed from Multnomah county, was modified.

The judgment of the circuit court of Lane county was affirmed in the case of the First National Bank of Cottage Grove against the Bank of Cottage Grove. This was an appeal on a demurrer. The judgment of the circuit court of Multnomah county in the case of Victor Land company against H. D. Winters, was reversed. The supreme court affirmed the judgment of the circuit court of Multnomah county in the case of Finley Morrison against L. S. Franck while the judgment of the circuit court in the case of G. W. Peek against the Shelly Lumber company, a case from Douglas county, was reversed.

R. T. McFeron, respondent v. John Doyens, et al. appellants, appealed from Marion county. Wm. Galloway, judge, petition for rehearing denied by Chief Justice Eakin. In matter of estate of James W. Young, deceased, appealed from Multnomah county. H. J. Bean, judge, on motion for rehearing, denied by Justice McBride. Victor Land Company, appellant, v. H. D. Winters, respondent, appealed from Multnomah county. Wm. Gatens, judge. Reversed by Justice McBride. This is suit in ejectment recover town property.

X-RAYS AND SMILES. If it never rained until everybody was ready for it, there would be a long dry spell. Ajax Major fired a spear at Ajax Telamon last night when Councilman Durbin, dodged out from behind the mighty shield of Ajax Lachmund. No serious damage done. It is reported that Nat Goodwin is to marry again, this time the victim is Miss Marjorie Moreland. Nat has a good bank roll and is therefore good bait in the matrimonial pond. Marjorie will be number 5. The weather clerk at Washington says Oregon is to have cool weather for a week. So it is well to arrange for an extra supply of ice. The Scio Condensed Milk company pleaded guilty recently to violating the pure food law by selling condensed skimmed milk, and yet skimmed milk requires a great deal of condensing before there is anything of it, but a whitewash look.

A Skin of Beauty is a Joy Forever

DR. T. FELIX GOURAUD'S ORIENTAL CREAM OR MAGICAL BEAUTIFIER



Remove Tan, Freckles, Pimples, Blemishes, Redness, Irritation, Rash, and All Unpleasantness of the Skin. It is the best beauty preparation for the face. It is the best beauty preparation for the face. It is the best beauty preparation for the face.

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LACHMUND AND DURBIN

(Continued from Page 1.)

Throws Down Gantlet. When the resolution was introduced Durbin arose to speak in its behalf and Mayor Lachmund, calling Councilman Eldridge to the chair, took a seat on the floor. Just as he was leaving the mayor's chair, Durbin shouted "That is right; you are the man I am looking for" and from then the fight was on—and it was a battle royal.

Shuts Off Talk. Councilman Durbin had but barely got started delivering the nice little speech he had been preparing for days on the subject when some one moved to table the resolution and some one else seconded the motion. Durbin proceeded to continue his talk, but a point of order was raised on the ground the motion was not debatable, and Chairman Eldridge ruled him out of order. "Is the gag rule to be applied to me; am I not going to be given the privilege to talk?" shouted Durbin. Chairman Eldridge advised him the motion was not debatable but he immediately launched out again.

The mayor raised the same point of order again and the chair ruled with him. Agin Durbin asked if he was not going to get a chance to talk. "Not today but tomorrow," answered the mayor. Nothing to Talk on Now. The motion was then put to a vote with Durbin still standing and protesting against the gag rule. After it had carried he tried to continue his discourse and now he was confronted with the rule that he was barred from talking because there was nothing before the house to talk on.

But whether he had a subject or not he seemingly wanted to talk, and the mayor again objected, saying "you are talking to the walls now; there is nothing before the house." Councilman Huckstein moved to grant Durbin the courtesy of the floor, but the mayor objected, and finding himself worsted on all sides, Durbin sat down. It was enough to make almost any one sit down. Then the Clash Came. The council went on with its business and Durbin sat silently by evidently looking for an opportunity to break in on the proceedings with a bridge talk.

The opportunity came when a motion was made that a committee be appointed to confer with the Salem, Falls City & Western Railroad company relative to the city co-operating with the company in building a double decked bridge across the river, and he was on his feet in a minute. In a general way he opposed the motion and then he drifted back to the motion that had been tabled. The mayor called him to order, saying the river bridge was under discussion and no other, but the chair ruled against him, and the mayor excepted. Durbin continued to roost—to send hot shots at the council for enforcing the gag rule on him. Finally he sat down and then Lachmund came to the bat.

Mayor Aims Vocabulary. "Councilman Durbin is making a mountain out of a mole hill—he likes to hear the sound of his own voice," snarled the mayor. "The pleasures of victory are momentary but the stings of defeat are everlasting. He is a grandstand player and the talks of the councilman from the silk-stocking ward is but hot air—he is a great big noise, that is all; a darned good winner but a poor loser." That settled it. The council passed the motion and the mayor named the committee and the council went on with its business. The clash between the two was the first that has occurred since they entered upon the duties of their respective offices and it certainly was a merry one for a beginner.

Season's End Sale

The Best Values are Always Here. We are offering a Great Many Reductions in order to empty our shelves and clear the racks for the largest Fall Stock we have ever carried.

WE WANT YOU TO SEE THE EXTRA SPECIALS

You know our regular values, consequently you are well aware that it is greatly to your interest to take advantage of the reduced prices.

Table with 3 columns: Men's Clothing (1-4 Less), Wash Goods (1-4 Less), Short Summer Kimonas (1-3 Less), 20% Reduction On Men's Pants, Children's Cotton Dresses Greatly Reduced, Long Gingham Petticoats (56c Each Good Quality), Children's Gauze Union Suits (19c each), 75c Quality Silk (49c per yard), Short Gingham Petticoats (29c Each Easily worth 45c).

Always in the Lead with Style and Quality

Stockton advertisement with list of items: Cotton Challies (5c per yd.), Calicoes (5c per yd), Gingham (5c per yd).

Real Estate Transfers section listing various property transactions and legal notices.

ROSTEIN & GREENBAUM'S Mid-Summer Clearance Sale advertisement with extensive list of clothing items and prices.

When the Clock Strikes Ten TOMORROW, WEDNESDAY, AUG. 2d, the big Mid-Summer Sacrifice Sale opens at POWERS' JEWELRY STORE, new Bligh Block. \$12,000 Stock of highest grade jewelry will go on sale at cut-slash prices—save 25 to 75 per cent. Shop early; get your pick of the choicest bargains. POWERS' JEWELRY STORE See Window Display. New Bligh Block. Open Evenings during Sale. 240-246 North Commercial Street