
 CHESHIRE.

SANDERSON v. TAYLOR.

The service of a writ by copy or summons given to the defendant is not invalidated by the sheriff's non-execution of a command of the same writ to attach property.

CASE, for slander. The writ commanded the sheriff to attach the goods or estate of the defendant, and summon him. No attachment was made. The officer's return is, that he summoned the defendant by giving him a true attested copy of the writ. The defendant moved to quash on the ground that there could be no legal service without an attachment.

E. J. Temple and *H. W. Brigham*, for the defendant.

E. M. Forbes, for the plaintiff.

DOE, C. J. Notice was properly given by copy. Laws 1883, c. 22. The sheriff's non-execution of the command to attach property deprived the defendant of no notice or advantage to which he was entitled. The requirement of notice by copy or summons when property is attached (G. L., c. 223, s. 3) does not make the validity of such notice depend upon an attachment. The ancient practice of making a false return of an attachment of a chip is useless, and not commendable. The case is not an exception to the general rule, that a party cannot object to anything that is not injurious to him. *Shirley v. Lunenburg*, 11 Mass. 379, 383; *Perley v. Parker*, 20 N. H. 263, 270; *McKean v. Cutler*, 48 N. H. 370, 375; *Lisbon v. Lyman*, 49 N. H. 553, 585; *M. & M. R. Co. v. Jurey*, 111 U. S. 584, 593.

Motion denied.

BINGHAM, J., did not sit: the others concurred.

 SMITH, *Adm'r*, v. HADLEY & a.

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A bill in equity may be amended by substituting one of the defendants for the plaintiff, by whom the bill cannot be maintained.

BILL IN EQUITY, for leave to sell certain lands. The parties agree that the lands were devised by Nathan Holt (of whose estate

the plaintiff is now administrator) to Mabel Holt, one of the defendants, if she lives to the age of twenty-one years, but if she dies before arriving at that age, then to the other defendants; that they are rapidly depreciating in value, and by the time Mabel—now nine years old—reaches the age of twenty-one, will be of comparatively little value.

The parties appear *pro se*.

CARPENTER, J. The administrator has no interest in the case, and is not a proper party. The bill may be amended by substituting in his place as plaintiff any one of the defendants, and thereupon there will be a

Decree for the plaintiff.

BINGHAM, J., did not sit: the others concurred.

EVANS v. MASON.

To constitute a conversion of chattels, there must be some exercise of dominion over the property in repudiation of, or inconsistent with, the owner's rights.

Mere delay, by the bailee of a horse hired to drive to and from a place named without stopping, is not sufficient evidence of a conversion.

TROVER, for a horse and harness. The plaintiff's evidence tended to prove that the defendant, a minor, hired the plaintiff's horse, wagon, and harness to carry a woman from Swanzey to a certain house in Keene, and then to return directly back to Swanzey without stopping; that he carried the woman to the place named, drove thence on the direct route towards Swanzey to a stable, where he waited half an hour for a friend, upon whose arrival he ordered the horse to be fed, and went with his friend to the depot; that in a few minutes the stable took fire, and the horse and harness were burned. The defendant objected that there was no evidence of a conversion.

D. H. Woodward, for the plaintiff.

Batchelder & Faulkner, for the defendant.

CARPENTER, J. To constitute a conversion of chattels there must be some exercise of dominion over the property in repudiation of, or inconsistent with, the owner's rights. *Heald v. Carey*, 11 C. B. 977; *Cooley Torts* 448; *Hyde v. Noble*, 13 N. H. 499; *Johnson v. Farr*, 60 N. H. 426. It is not every wrongful inter-

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