
Bancroft v. Speer.

The fact that Mrs. Boyle called it Ann's money, was a device to get more interest; and when speaking about it to Roberts in her husband's presence, it might have been, and doubtless was her policy, to keep the fact that she had so large a sum of money from the knowledge of her husband, as some women do not like to trust their husbands with such knowledge. The testimony of the sister, Mrs. Creighton, makes the matter very plain. Ann told her that she and Margaret (Mrs. Boyle) had drawn their money from Corwith's Bank, and she (Ann) had loaned hers (two hundred) to Curley & Omara, at ten per cent. interest, and Margaret had deposited hers in Mr. Carter's Bank, in her, Ann's, name. Placing implicit confidence in her sister, and wishing to keep from her husband the knowledge of the possession of so large a sum of money, she has it deposited, not only in Corwith's Bank, but with Mr. Carter, in her sister's name, and on settlement with Carter is willing to take Harris' note, payable to her sister.

So the testimony of the sister-in-law, Mrs. P. Levings, goes to show that Ann and her mother had designs upon this money to appropriate it to their own use.

We make no remark on the testimony of Jane McGinn, as that is somewhat weakened by the testimony of her brother.

The testimony of Matthew Levings, her brother, shows very clearly Ann could not own so much money, and that it belonged to her sister, Mrs. Boyle, and from her confidence in her, suffering her to deposit it in her name, she has incurred the hazard of losing it altogether.

We think the evidence is strongly against the verdict, and that justice has not been done. We accordingly reverse the judgment, and remand the cause.

Judgment reversed.

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SAMUEL B. BANCROFT, Plaintiff in Error, v. THOMAS SPEER,
Defendant in Error.

ERROR TO THE SUPERIOR COURT OF CHICAGO.

The sheriff's return on a summons against Samuel B. Bancroft, was as follows:
"Served the within by reading the same to and in the hearing of S. B. Bancroft,
June 21, 1858."

This is insufficient. It does not show whether the date refers to the time of the service or of the return. Nor does it show that service was made on Samuel B. Bancroft. S. B. may be the initials of a different person.

Leech v. Waugh, use, etc.

THIS case was reversed on the ground of an insufficient return, by the sheriff. The facts are sufficiently stated in the opinion.

GALLUP & HITCHCOCK, for Plaintiff in Error.

T. L. DICKEY, and M. R. M. WALLACE, for Defendant in Error.

WALKER, J. The return to this summons is this: "Served the within by reading the same to and in the hearing of S. B. Bancroft, June 21, 1858." It fails to specify whether the date is designed to indicate the day it was served or returned. In this it was insufficient. *Ogle v. Coffey*, 1 Scam. 239. This return also fails to show that the summons was served on the defendant. The officer returns that he served it upon S. B. Bancroft, but fails to say that he was the person named in the summons, and we know that these initials may as well apply to other names as that of "Samuel B.," and we know of nothing by which we can determine that they were designed for the defendant's name, and the officer has failed to return that it was so intended. Had he returned that he had served it on the within named defendant, or employed any language from which we could have seen that such was the fact, the return would have been sufficient. But it was insufficient to warrant the rendition of a judgment, and it must be reversed.

Judgment reversed.

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JOHN W. LEECH, Plaintiff in Error, v. JOHN WAUGH, who sued for the use of himself and the County of Putnam, Defendant in Error.

ERROR TO PUTNAM.

A party is not liable as a matter of course to the highest penalty imposed for obstructing a highway, and it is erroneous so to charge a jury.

A street of an unincorporated town or village, when dedicated, is a public highway, and any person obstructing it, will be liable to the statutory penalty. Otherwise if it is incorporated, as then the streets are vested in the town, and are subject to the corporate authorities.

The owner of lots abutting on only one side of a street, cannot vacate it.

THIS was an action brought before a justice of the peace, of Putnam county, under the 16th section of the Road Law, Revised Statutes, page 482.