

Practice in Injunction Cases.

SUPPLEMENTARY BRIEF.

SMITH vs. HUNT.
ON the 26th February, 1845, at Georgetown, Mr. B. F. Hunt presented a petition to his Honor, Ch. David Johnson, (praying an order to the Commissioner to sign a Writ of Injunction, to the following effect:

The petition of B. F. Hunt, Assignee of Charles T. Brown, sheweth, That on 22 February, 1842, this Honorable Court granted an Injunction against Peter Cuttino and W. S. Smith, administrators of Savage Smith, restraining them from proceeding at law on the Bond of the Petitioner given to the Commissioner of this Court, until the further order of the Court. A suit was then brought in the name of the Commissioner in Equity for the time being. Proceedings were accordingly suspended. Since then the said Cuttino and Smith died, and William C. Smith has administered de bonis non, and now represents the Estate of Savage Smith, and a new suit has been commenced in the name of the present Commissioner, so that the same suit in the same right has been again commenced, and the order for an injunction stands reversed.—Wherefore, your Petitioner prays that the Commissioner be ordered to sign a Writ of Injunction, pursuant to the original order, to be directed to the present Commissioner, and the present Administrator of Savage Smith, to the same effect as the original order.

Signed, MEMMINGER & JERVEY, Pro. Pet.

The order referred to in the Petition was as follows:

It is ordered, that an Injunction issue according to the Prayer of the Bill, and that all proceedings in the action now pending at Law, on the bond of the Complainant to Robert Heriot, Commissioner, at the suit of Peter Cuttino and W. S. Smith, or either of them, be stayed until the further order of this Court, with leave to the Defendant to come in and file his answer, and move to set aside the injunction.

Signed, HENRY W. DESSAUSURE, 2nd February, 1832.

The application was resisted on the part of Wm. C. Smith and others, on the ground that the Injunction prayed for, in effect, by the Petition, was different from that ordered by Chancellor Dessausure thirteen years ago—and that after so great a lapse of time, and the filing of the answer, it should not now be granted without looking into the merits of the case. This the Chancellor refused to do, and, overruling the objection, granted the order in the following words:

"On motion of Memminger and Jervey, on behalf of the Complainant, ordered that the Order of Injunction formerly made against the former Administrator of Savage Smith, be revived against the present Administrator, and the Commissioner do sign the Writ accordingly. Signed, &c.

It was afterwards ascertained by the Commissioner, by certificate after search, that there was no Injunction Bond to be found in the office, if any had ever been given—and a motion was made before his Honor, at Charleston, that the order just before granted at Georgetown should be amended, so as to require security from the Petitioner, in conformity to the provisions of the Statute. This was refused, and his Honor's decision in the above matter, is appealed from for Error—

1. In reviving an Injunction formerly ordered, after so great a length of time, against new parties, without considering the merits of the case.

2. In ordering bond and security in conformity to the provision of the Statute, regulating the granting of Injunctions.

MITCHELL, Solicitor of Wm. C. Smith and others.

I. C. T. Brown and wife, vs. Adams and Distributors of G. ORIGINAL.

2. B. F. Hunt, Assignee, vs. W. S. Smith and al. SUPPLEMENTAL.

3. Wm. C. Smith and al. vs. B. F. Hunt. AND CROSS BILL.

1845, MARCH 31—JOHNSON, CH.

We do not perceive any conflict between the decision of the Chancellor, dismissing the rule taken out to set aside the order of reference, and the order subsequently made to arrest the reference for the purpose of making other necessary parties.

The rule proceeded upon an allegation that the order of reference had been irregularly obtained, and was discharged because that did not appear to have been the case.

The subsequent order proceeded upon the principle that, even where an order of reference has been regularly made, if at any stage of the cause it appears that the accounts cannot be properly taken without additional parties, it is the duty of the Court to stay proceedings until they be brought regular.

In words it has been more regular, in such case, to have merely suspended, instead of recalling the order of reference; and it is now ordered that the decree be so modified, although the apprehension expressed, that the recalling of the order would have suppressed the evidence taken under it, any more than the evidence taken in any former stage of the case, would seem to be unfounded.

We concur in the propriety of the decree requiring the additional parties, and deem it unnecessary to add to the observations of the Chancellor on that subject.

If, as is suggested and as appears very obscurely by the pleadings, Henry Cuttino is the Admor. de bonis non of Savage Smith, these being parties to the suit, so much of the decree is complied with, but the other parties required by the decree must nevertheless be made.

On the subject of the injunction, we differ from our brother Johnson.

The Statutory Law, applicable to this point, is contained in the acts of 1731, 1734 and 1784; (7 Cooper's Statutes 161 §5, 118 §15, and 309 §9.)

The first of these acts, after prescribing the conditions upon which application for injunctions shall be made, provides that where the application is stayed (of course by interlocutory order) suits before judgment, brought upon money demands, secured by promissory note, bill of exchange, bond, single bill, or other specialty, or to stay execution after judgment for money, no injunction shall be granted until the sum of money so accrued and used for, or for which the judgment was given, be deposited in this Court.

The next Statute, after characterizing this requisition as too rigorous, enacts that defendants at law may be entitled to an injunction of the proceedings against them, upon giving security to the Master or Register in Chancery, not exceeding the damages laid in the declaration, to perform the order or decree of this Court.

It would seem that this latter statute was supposed to be confined to the proceedings prior to verdict and judgment, and that as to the latter, the money must still be deposited, for the act of 1784 provides as follows: "Whereas the obliging a complainant, seeking relief from the obliging a complainant at law, to deposit the sum for which a verdict or judgment was obtained, before an injunction can issue to stay execution, would be attended with much inconvenience," &c. "Be it therefore enacted, that a party applying for an injunction to stay

proceedings in an action at law, or judgment on execution, or the levying of execution, shall be entitled to such injunction on giving bond to the plaintiff at law, with security, be approved of by the Master in Chancery, for such sum and with such condition as the Court shall direct," &c.

It is very apparent that the latitude here given as to the sum and condition of the bond, arose from the fact that judgments and proceedings were all embraced together; and whereas, where the debt was ascertained by judgment, it would have been sufficient to require bond to secure that amount, no such definite direction could be given when the suit was still pending. But still the Court has no power to dispense with bond and security, unless the money be deposited. Its only discretion is over the amount and condition of the bond in cases where judgment has not been obtained, the discretion as to the amount is merely to limit the penalty to contract sued on, or extend it to the damages claimed. In this case, an injunction has been ordered, but no bond was given. On the further application for an order requiring the Master to sign the writ, we are of opinion that it should have been refused, except upon the applicant's complying with the law by giving bond with sufficient surety; and it is ordered that the Chancellor's decision on this point be reversed and his order set aside.

(Signed) J. JOHNSON.

We concur. DAVID JOHNSON, WM. HARPER.

(Signed) THOS. J. GANTT, Filed 31st March, 1845.

Ordered by the Equity Court of Appeals, to be published once in each paper in the State, June 13, 1845.

INVALUABLE Family Medicines.

DR. SPENCER'S VEGETABLE PILLS

"Prove all things, and hold fast to that which is good."—Paul.

THESE PILLS are no longer among those of doubtful utility. They have passed away from the thousands daily launched on the "tide of experiment," and now stand higher in reputation, and are becoming more extensively used, than any other medicine ever prepared. They have been introduced into every place where it has been found possible to carry them, and there are few towns, or villages, but contain some remarkable evidences of their good effects. But it is not necessary to advertise them at large, or to say any thing further of them, than to caution those wishing to purchase Antibilious Family Medicine, to be particular to enquire for SPENCER'S VEGETABLE PILLS, as there are numerous preparations put on sale almost every day, of doubtful efficacy. To satisfy the world of the inestimable worth of this Medicine, I would simply observe that, it has been long used by some of the leading lights of the profession in their extensive practice, and is now prepared with great care, and upon scientific and chemical principles, for general use, by the present proprietor ONLY. The impuration of Quackery therefore cannot be affixed to this Medicine, since it is the preparation of regular practising Physicians, who have made the healing art their profession, and whose pharmaceutical preparations will ever be held in the highest estimation.

Read the following certificate from Mr. O. C. Kelsey, a popular merchant of Tompkin's Bluff, Ala., and thousands of a similar character might be given if necessary to prove the efficacy, popularity and usefulness of this medicine.

Tompkin's Bluff, Ala., Jan. 4, 1843.

Dr. A. Spencer—Dear Sir: I wish you to forward me a large supply of your pills; I don't think 300 boxes too large a quantity to send. I sold 160 boxes the last six months; they are my most popular pill in this place. For bilious complaints, sick-headache, dyspepsia, costiveness and such like diseases, they are considered almost an infallible remedy. I have been agent for Dr. Peter's Pills, and formerly sold a large amount yearly; but I now sell three dozen of your pills to one of his. My customers think them superior to Peter's or any other pills.

Respectfully yours, O. C. KELSEY.

Price, 25 Cents per box, with full directions.

A fresh supply, just received and for sale, in Edgefield, by J. D. TIBBETT'S, and on enquiry may be found generally in all the cities, villages, and at the principal Country Stores throughout the State.

Oct. 30. 6m 41

Remedy for Coughs.

DR. HULL'S COUGH LOZENGERS are most rapidly superseding all other preparations for the relief of Coughs, Colds, Asthma, Whooping-cough, Catarrh, Tightness of the chest, Bronchitis, and similar pulmonary affections.

Thousands, we may say thousands who have suffered for years from the above diseases are now in the possession of sound health, which may be attributed entirely to the fortunate use of one 25 cents box of this invaluable medicine. They are as pleasant to the taste as candy—convenient to carry in the pocket, and warranted to be the most effectual Cough medicine in use.

Price, 25 Cents per box, with directions.

Hull's Worm Lozenges.

worms! worms!! worms!!!

It is estimated that 100,000 children die annually from the effects of worm's alone! This vast mortality could be almost entirely prevented by the use of Dr. Hull's Worm Lozenges. Every family where there are children, should not fail to keep this important medicine in the house, and administered when their symptoms indicate the presence of these dangerous and destructive reptiles.

The following extract from the "Spartan Gazette," speaks the sentiments of all who have ever used this valuable WORM DESTROYING MEDICINE.

"From our own knowledge, we take great pleasure in recommending Hull's Worm Lozenges as the best Worm Medicine extant. Children will cry for them, and eat them as they would candy."

A fresh supply, just received and for sale, by J. D. TIBBETT'S.

Only 25 Cents per box, with directions.

Oct. 30. 6m 41

Positively the Last Notice.

ALL Persons having demands against the Estate of John Cheatham, Sen., deceased, are requested to present them properly attested within the time prescribed by law, and those who do not avail themselves with this opportunity will not be paid.

GETHERIDGE CHEATHAM, Executor.

The friends of SAMUEL B. MAYS, announce him as a candidate for the Office of Tax Collector at the next election.

Oct. 30. 40

DR. HULL'S VEGETABLE FEVER AND AGUE AND ANTI FEVER PILLS.

THESE PILLS wherever they have been fairly tried have established an enviable celebrity, and are daily superseding all other preparations in curing the diseases for which they are prepared.

The following certificate is from Judge Forest, a gentleman of the first respectability in Jefferson Co., Alabama.

Jonesboro', Ala., 4th Feb. 1844.

I certify that in the summer of 1842 I had a severe attack of fever and ague, and was for some time under the treatment of a physician, but received no benefit from his prescriptions—my disease continuing to increase in the frequency and severity of its attacks. I at last had recourse to Dr. Hull's Fever and Ague and Anti Fever Pills, and in using half a box was entirely cured, and have remained in good health ever since. I afterwards had in my family several cases of fever and ague, and have in every instance made use of Hull's Pills, which have always immediately effected a cure.

J. F. FOREST.

Price, \$1 per box, with directions. A fresh supply, just received and for sale, by J. D. TIBBETT'S.

Oct. 30. 6m 41

Dr. Brandreth's Pills.

WORKS OF NATURE!

IN a state of health the intestinal canal may be compared to a river, whose waters flow over the adjoining land, through the channels nature or art has made, and improve their qualities; and to keep up the comparison of the river, so long as it runs smoothly the channels are kept pure and healthy; but if by some cause the course of the river is stopped, then the water in the canal is no longer pure, but soon becomes stagnant. There is but one law of circulation in nature. When there is a superabundance of humoral fluid (serosity) in the intestinal tubes, and costiveness takes place, it flows back into the blood vessels, and infiltrates itself into the circulation. To establish the free course of the river, we must remove the obstructions which stop its free course, and those of its tributary streams. With the body, follow the same natural principle—remove the obstructions from the bowels, with BRANDRETH'S PILLS, which never injure, but are always effectual for the perfect cleansing of the system: from foulness or disease. By persevering in this practice, the ways of the circulation will then be restored in the full exercise of their natural functions, and a state of health will be firmly established. Remember, never suffer a drop of blood to be taken from you: Evacuate the humors as often and as long as they are deranged, or as long as you are sick.

The Pills are sold at Dr. Brandreth's Office, 241 Broadway, N. York. Also, by Bland & Butler, Edgefield C. H.; S. D. Clarke & Co., Hamburg; J. S. & D. C. Smyly, Meeting Street; W. M. Coleman, New Market; Whitlock, Sullivan & Waller, Greenwood; L. D. Meriman, Cokesbury.

June 18. 5t. 21

State of South Carolina.

EDGEFIELD DISTRICT.

Benj. F. Landrum, bearer, } Declaration
vs. Richard Allen, } Attachment.

THE Plaintiff in the above stated case having this day filed his Declaration in my Office and the Defendant having no wife or attorney known to reside within the limits of the State on whom a copy of the same with a rule to plead can be served. It is therefore ordered, that he appear and plead to the same, within one year and a day from the date hereof, or final and absolute judgment will be awarded against him.

THOMAS G. BACON, c. c. r.

Clerk's Office 21st Nov. 1844

Nov. 27. 44 1y

South Carolina,

EDGEFIELD DISTRICT.

Seaborn A. Jones, } Declaration
vs. Enoch Byne, } Attachment.

THE Plaintiff having this day filed his declaration in my office, and the defendant having no wife or attorney, known to be within the State, on whom a copy of the same, with a rule to plead, can be served: It is ordered, that the defendant plead to the said declaration, within a year and a day, or final and absolute judgment will be given against him.

THOS. G. BACON, c. c. r.

Clerk's Office, 17th March, 1845 1y 8

State of South Carolina.

EDGEFIELD DISTRICT.

Berry Rodgers, vs. Enoch Byne } Dec'n in
and Wm. H. Byne, } Attachment.

THE Plaintiff in the above stated cases having this day filed their declarations in my office, and the defendants having neither wives or attorneys known to be within the limits of this State, on whom a copy of said declarations with a rule to plead can be served: It is therefore ordered, that the said defendants do plead to the said declarations, within a year and a day from the publication of this order, or final and absolute judgment will be awarded against them.

THOS. G. BACON, c. c. r.

Clerk's Office, 17th March, 1845 8 1y

State of South Carolina,

EDGEFIELD DISTRICT.

C. J. Glover, } Declaration in
vs. James H. Harrison, } Foreign Attach
The Same, } Declaration in Foreign At
vs. } tachment.

THE Plaintiff in the above stated cases having this day filed his declarations in my office, and the defendants having no wife or attorneys known to be within the limits of this State, on whom a copy of said declarations with a rule to plead can be served: It is therefore ordered, that the said defendants do plead to the said declarations, within a year and a day from the publication of this order, or final and absolute judgment will be awarded against them.

THOS. G. BACON, c. c. r.

Clerk's Office, Oct. 31, 1844. 1y 41

APPELLATION

MRS. MCCRUDALE begs leave to inform her friends and the public, that she will attend to all orders in the above line, in a style equal if not superior to any ever done in this place. Prices to suit the times. Gentlemen's Straw and Leghorn Hats cleaned and pressed.

Edgefield C. H., April 9. 2m 11

Sibley & Trapon.

Wholesale & Retail Grocers.

CORNER CENTRE AND MARKET STREETS, HAMBURG, S. C.

HAVE just received, and will continue to receive fresh supplies of the following Articles, which they offer to their friends and the trade, at the lowest market prices:

SUGARS.

- 20 lbs. choice St. Croix Sugars
- 30 do. Porto Rico do.
- 10 do. Muscovado do.
- 3 do. Clairfield do.
- 10 lbs. Crushed do.
- 5 do. Pulverized do.
- 5 boxes double refined Leaf Sugar.

COFFEE.

- 60 bags Old Government Java Coffee
- 10 do. Augusta do.
- 300 choice Rio do.
- Bales Mocha do.

CHEESE.

- 20 cases prime Cheese.

BAGGING.

- 200 pieces Heavy Dundee, 44 to 45 inch.
- 100 do. Tow, 45 inch.
- 150 do. Gergia & Carolina, 44 to 45 inch.
- 50 do. Kentucky, (heavy) 44 to 45 inch.
- 24 bales Gunny, 24 per yard, 45 to 47 inch.

SHOES.

- 3000 pair thick Brogans, choice
- 1000 do. Kip - do.
- 1000 do. Women and Boy's Shoes.
- 3000 lbs Sole Lea hor.

ROPE

- 150 coils Manila Rope
- 50 do. Kentucky Rope
- 50 do. Jute do.

MOLASSES

- 10 lbs. Trinidad
- 25 lbs. New Orleans

IRON

- 1000.00 lbs. Iron of various sizes, viz: 2 1/2 and 3 by 2 1/2 and 2 1/2 by 2 1/2 to 2 1/2 by 4 to 3 1/2 by 4 to 3 1/2 by 5 to 3 1/2 by 6
- 5000 lbs. Band Iron
- 1000 lbs. Hoop Iron, from 3 to 1 1/2 inch
- 10 bundles Nail Rods

CHAIRS.

- 5 dozen Rocking Chairs, and wood seats

BLANKETS.

- 2 bales 9-4 Blankets
- 2 do. 10-4 do. weighing 7 lbs the pair
- 2 Jo. Grey do. 10-4 " "

A good assortment of Bed Blankets 10 to 12-4.

NEGRO CLOTHS.

- 2000 yds. Washington Jeans heavy,
- 2000 do. Coventry Plains.

SALT.

- 1200 Sacks Salt, (Charleston Sacks)
- 5 do Table Salt
- Boxes Table Salt.

NAILS.

- 125 Kegs Nails, assorted Sizes
- 25 do. Frising Nails
- 20 do. Brads.

SHOT.

- 200 Bags, assorted Sizes

BACON.

- 10,000 Prime Country Sides.

POWDER.

- 30 Kegs Dupont's FFF G
- 20 do Blasting
- 12 do Eagle

SEGARS.

- 10 M. Large Spanish (W. A. H.)
- 4 M. Spanish (L. Valades)
- 10 M. do. (R. P. M.)
- 6 M. Light Spanish (L. Valades)
- 5 M. Imperial Regalias (Venus.)

TEAS.

- 50 Boxes Teas. Consisting of gu powder, Hyson and Imperial
- 6 Cases Catness, Gunpowde, Imperial & Hyson,
- 2 chests Black Tea.

— ALSO —

- Ginger, Pepper, Spice, Cinnamon, Nutmegs, Saitpeper, Blue Stone, Indigo, Copperas, Shoe Thread, Cotton and Wool Cards, Brass Bound Buckets, Painted Buckets, Tubs, Churns, Keelers Willow Wagons and Cradles, Washboards, Cocoa Dippers, Clothes Pins, Brooms, Wooden Bows, Wash Stands, Bellows, Rakes, 1/2 doz. Scythes, Hauldres, Coffee Mills, Soap, Wagon Boxes, Saddle Irons, Winglow Glass, Starch, Pistols, Canal Flour, Country Flour, Tobacco, Wool Caps, Grindstones, Usmburgs, White Lead, Madder, Spern Candles, Tallow Candles, Twine, Castings, Fifth Chains, &c., &c.

WANTED—10,000 lbs. BLEW WAX, for which the highest cash price will be paid.

South Carolina,

EDGEFIELD DISTRICT.

Nancy M. Dillard, Executrix, vs. Dec'n in
and Wm. H. Byne, } Attachment.

THE Plaintiff in the above stated cases having this day filed her declaration in my office, and the defendants having neither wives or attorneys known to be within the limits of this State, on whom a copy of said declarations with a rule to plead can be served: It is therefore ordered, that the said defendants do plead to the said declarations, within a year and a day from the publication of this order, or final and absolute judgment will be awarded against them.

THOMAS G. BACON, c. c. r.

Clerk's Office, 17th March 1845 1y 8

State of South Carolina,

EDGEFIELD DISTRICT.

Daniel Boon, Applicant, } Summons
vs. George Horn and others, } Partition.

IT appearing to my satisfaction that John Horn, George Elenburg, Larkin Elenburg, Ralph Elenburg, Adam and Nicholas Elenburg, defendants in the above stated case, resides without the limits of this State, it is therefore ordered, that they do appear and object to the division or sale of the Real Estate of George Horn, Sr., deceased, on or before the first Monday in July next, or their consent to the same will be entered of record.

JOHN HILL, c. c. r.

March 26. 3m

State of South Carolina,

EDGEFIELD DISTRICT.

David Nicholson and Wife } Bill
and others, } for
Mary Steife and others, } Partition.

IT appearing to the satisfaction of the Commissioner that Philip Steife, William Steife, and Udolphus Trustet or Tushiet, and Mary his wife, (if living), Defendants in this suit, reside out of the limits of this State, on order that the said Defendants do plead, answer or demur to the Complainant's Bill within three months from the publication of this order, or the said bill will be taken pro confesso against them.

S. S. TOMPKINS, c. E. E. D.

April 9. 3m 11

PROSPECTUS OF The United States Journal,

BY J. E. DOW & CO.

The first number of our new paper will be issued this (first) day of May, with an entire new dress—new type, fine white paper, with other important alterations and improvements. The paper will be devoted to a fearless exposition of Democratic principles; it will zealously and unremittingly oppose each and every effort to establish a mammoth monarchy bank and other mischievous corporations and consolidations of wealth, which subvert the rights of the people and undermine the pillars of the Republic; it will oppose an oppressive and anti-republican tariff system, the assumption of the State debts by the General Government, and all other Federal principles which have an inevitable tendency to destroy public property as well as individual happiness. Against all such political delusions, we shall wage unchanging, uncompromising war.

The Farmer and the Mechanic who produce all the real capital of the nation, will find in our paper an unavailing champion for their inalienable rights; the long cherished principles of the editors are too well known to the public to require any pledge upon this point. To the Miscellaneous Department particular attention will be devoted; the Ladies will always find in our columns a choice selection from the current literature of the day, as well as original contributions from the most talented writers of which our country can boast. A general summary of Foreign and Domestic news will be furnished, a regular price current and a correct list of the prices of stocks will also be given.

The conductors have already secured the aid and co-operation of a large number of the most distinguished literary and political writers of the day, arrangements will also be made, at the earliest period possible, to embellish our columns by the contributions of correspondents from abroad. With this brief and imperfect outline of our plan, we very respectfully submit our claims to an extensive patronage to the consideration of a generous public.