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CONSTITUTIONAL LAW—DISCRIMINATION IN STATUTE FOR RETURN OF PROPERTY TAKEN IN LIQUOR SEIZURE—*C. I. T. Corporation v. Commonwealth,* 149 S. E. 523 (Va. 1929). A Virginia statute provided for restoration to owners or lienors of motor vehicles seized in violation of the prohibition law, provided, inter alia, the owners were residents of Virginia or of the District of Columbia. The owner of the seized automobile was a resident of West Virginia, where a lien had been acquired by the intervenor, a corporation authorized to transact business in Virginia. Judgment of forfeiture, reversed. *Held,* the residence requirement was an arbitrary discrimination in violation of the Fourteenth Amendment.

CONSTITUTIONAL LAW—RIGHT TO SUE IN FEDERAL COURTS.—*Rhodes v. New York Life Ins. Co.,* 197 N. C. 337, 148 S. E. 439 (1929). N. C. Cons. Stat. Ann. (1919), §6295 providing for revocation of authority of a foreign life insurance company to do business in this state if it attempts to remove pending suit to federal court, *held,* unconstitutional as violating the right conferred by the U. S. Constitution upon the citizens of one state to resort to federal courts in another.

CONSTITUTIONAL LAW—VEHICLE TAX ON BASIS OF TONNAGE—*Clark v. Maxwell,* Comm'r of Revenue, 197 N. C. 604, 150 S. E. 190 (1929). Attacking the constitutionality of N. C. Pub. Laws 1929, c. 345, Sec. 165 (3), classifying motor vehicles according to tonnage and requiring a license tax on trucks engaged in hauling freight, for compensation, over the public highways between termini for a distance greater than fifty miles, the plaintiff in this action sought recovery of the license tax, paid under protest. *Held,* no recovery; the statute provides a reasonable basis of classification and is constitutional and valid.

CRIMINAL LAW—INDICTMENT FOR RECEIVING STOLEN GOODS—*Wendell v. United States,* 34 F. (2d) 92 (C. C. A. 4th. 1929). Indictment charging that defendant did ". . . receive . . . a stolen automobile . . . knowing it to have been stolen." *Held,* sufficient, although it failed to state that goods received were in fact stolen

goods. Such an omission was a mere defect in form which did not prejudice the defendant.

State v. Scurlock, 197 N. C. 475 (1929). Defendants indicted for knowingly receiving a stolen automobile. Jury found the defendants "guilty of having a car in their possession, knowing it to be stolen." New trial granted because verdict failed to find that the defendants knew the car was stolen *at the time of receiving it.*

CRIMINAL LAW—ENTRAPMENT TO VIOLATE PROHIBITION LAWS —*Fox v. United States,* 34 F. (2d) 99 (C. C. A. 4th. 1929). Defendant was informed of plan to entrap him in the sale of liquor. He took the $5 tendered him and turned it over to the clerk of the circuit court with the request that it be given to the King's Daughters, a charitable organization. Defendant then delivered a fruit jar containing spring water to the would-be purchaser. *Held,* judgment of conviction for selling intoxicating liquors reversed, there having been no delivery of liquor.

EQUITY—LACHES—EXCLUSIVE RIGHT TO USE NAME—*Ancient Egyptian Arabic Order of Nobles of the Mystic Shrine v. Michaux* 279 U. S. 737, 49 S. Ct. 485, 73 L. ed. 576 (1929). White Masonic order seeks an injunction against non-competitive but imitative negro order restraining latter from further use of name similar to that of white order. The answer sets up and the evidence proves laches and acquiescence. *Held,* no relief.

EQUITY—CLEAN HANDS—USE OF CORPORATE NAME—*Knights of the Ku Klux Klan v. Strayer,* 34 F. (2d) 432 (C. C. A. 3d. 1929). Knights of the Ku Klux Klan, a Georgia corporation organized for benevolent, religious, and charitable purposes, sues to enjoin defendant's unlawful use of its name. Defendant proves, over plaintiff's objection to relevancy, past unlawful acts of the plaintiff. *Held,* assuming the defendant misuses the name, plaintiff's "tarred hands" bar the equitable relief it seeks.

FEDERAL EMPLOYER'S LIABILITY ACT—EFFECT OF FRAUD IN PROCURING EMPLOYMENT—*Minneapolis, St. P. & S. S. M. Ry. Co. v. Rock,* 249 U. S. 410, 49 S. Ct. 363, 73 L. ed. 89 (1929). A. was refused employment because of physical infirmities. He assumed an

alias and secured the position on second application by having B. impersonate him in the physical examination. A. sued under the Federal Employers' Liability Act for injuries not caused by his physical condition. *Held,* Judgment for A. reversed because his status was "wrongful, a fraud upon the petitioner."

MORTGAGES—MAILING INCREASED BID TO CLERK AS SUBSTANTIAL COMPLIANCE WITH STATUTE—*Clayton Banking Co. v. Green,* 197 N. C. 534, 149 S. E. 689 (1929). By statute the Clerk of the Superior Court has authority to order a resale of lands foreclosed under mortgage when an increased bid of the proper amount is made and the deposit is "paid to the clerk" within ten days. Here on the last day the offerer talked with the Clerk by phone and was told that it would not be necessary to make a trip that day to place the deposit but that sending a cashier's check by mail that day would be sufficient. *Held,* The clerk authorized the use of the mail as his agency. Therefore, mailing the check was a substantial compliance with the statute.

MORTGAGES—INJUNCTION RESTRAINING FORECLOSURE ON CLAIM OF USURY—*Edwards v. Spence,* 197 N. C. 495, 149 S. E. 686 (1929). Plaintiff obtained temporary order restraining foreclosure of mortgage securing alleged usurious loan, until issue of usury could be determined. Order directed plaintiff to pay amount admittedly due plus six per cent interest. *Held,* on plaintiff's refusal so to do the order will be dissolved, since he who seeks equity must do equity.

INCOME TAX—TAXABLE GAIN FROM LIFE INSURANCE—*Lucas Collector v. Alexander,* 279 U. S. 573, 49 Sup. Ct. 426, 73 L. ed. 180 (1929). Dividends from surplus of company, payable only if policy was in force at end of twenty-year period, were annually set aside on the books, for endowment life insurance policies, paid up in 1908. Insured, *exercising an option at maturity,* received face value plus cash dividend then apportioned. *Held,* Basis for determining taxable income is the insurance reserve liability for each policy plus dividend accumulations provisionally apportioned on March 1, 1913, and not cash surrender value.

SEARCHES AND SEIZURES—REQUIRED KNOWLEDGE OF CRIME—*DePater v. United States,* 34 F. (2d) 275 (C. C. A. 4th. 1929). Prohibition agents detected the odor of mash, requested defendant's permission to enter the house, were refused admission, climbed on porch, opened shutter of second story window, and discovered a still and several barrels of whiskey. *Held,* Judgment of conviction reversed, the evidence being obtained by a search illegal in that the officers did not have the requisite certainty of knowledge of the nature and perpetration of a crime.