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25089 ASHER v. STATE. Delaware Circuit Court. *Reversed.* Willoughby, J. October 30, 1929.

The appellant was convicted on the charge of transportation of intoxicating liquor in an automobile. The court did not err in overruling the motion to quash the indictment. The offense as charged in the indictment in this case was a felony as described in Ch. 34 of Acts 1923 and not a misdemeanor as described in Ch. 23 of Acts 1923. The court erred in giving two instructions relating to the defendant's defense of alibi, the instructions having a tendency to disparage and discredit the evidence offered by him in support of the alibi.

25669 BURCH v. STATE. Vanderburgh Circuit Court. *Affirmed,* Gemmill, C. J. October 30, 1929.

The appellant was convicted on the charge of vehicle taking. Where no ruling on the motion for a new trial or defendant's exception thereto appears in the record proper, but such a ruling and exception are shown in the special bill of exceptions, no question concerning the motion for a new trial is presented for consideration.

25760 GREER v. STATE. Monroe Circuit Court. *Affirmed.* Martin, J. November 14, 1929.

Appellant was convicted on the charge of unlawful and felonious transportation of intoxicating liquor in an automobile. Under the facts shown the officers had reasonable and probable cause to believe that the automobile contained intoxicating liquor and consequently they had the right to search the automobile without a search warrant; furthermore, the facts come within the rule that one cannot object to a search of premises or property of which he disclaims ownership or control. Where error is predicated upon the trial court's permitting witnesses to answer certain questions, these answers, or at least a statement of their substance, must be presented with the questions, together with the grounds of objection; and the court will not search the record for the evidence adduced by the questions complained of.

25304 HEADLEE v. STATE. Rush Circuit Court. *Affirmed.* Gemmill, C. J. November 20, 1929.

Appellant was convicted on the charge of vehicle taking, in violation of Sec. 1, Ch. 189, Acts 1921, Sec. 2460 Burns 1926. Demurrer was properly sustained to plea in abatement for setting out that an affidavit had been filed against the appellant in another court charging him with the offense of receiving stolen goods, the plea alleging that each offense was based on the same acts of the appellant; the pendency of a criminal prosecution against the defendant in another court where jeopardy had not attached

would not have been available to defeat a prosecution in a court of competent jurisdiction, even if the two prosecutions were for the same offense. A variance is not now regarded as material unless it is such as might mislead the defense, or might expose the accused to the danger of being put twice in jeapordy for the same offense." See opinion for alleged errors in the matter of instructions.

25530 McCORMICK v. WALL. Warren Circuit Court. *Affirmed.* Myers, J. November 1, 1929.

This is a township trustee election contest proceeding commenced befor the Board of County Commissioners. See opinion for full discussion of the evidence.

25093 PRICE v. STATE. Marion Criminal Court. *Affirmed.* Myers, J. November 14, 1929.

Appellant was found guilty of embezzlement. (Sec. 2470 Burns 1926.) Indiana Criminal Procedure makes no provision for the filing of a plea in abatement of a criminal charge but the right of defendant to file such plea has been recognized in view of Sec. 2406 Burns 1926, Acts 1905, p. 584, Sec. 344. While as a general proposition a plea in abatement must precede an answer in bar, this is not a hard and fast rule and is a matter calling for the exercise of sound legal discretion on the part of the trial court. In the instant case a motion to strike out appellant's plea in abatement would have been proper practice, but since a ruling on the demurrer brought the same result no reversible error was thereby committed.

25528 RUSSELL v. TRUSTEES OF PURDUE UNIVERSITY. Tippecanoe Circuit Court. *Affirmed.* Willoughby, J. November 1, 1929.

The trustees of Purdue University instituted a condemnation proceeding for the purpose of condemning the fee simple title of defendants in certain described land; the plaintiff desiring to acquire the fee simple title to the real estate in question for the purpose of erecting thereon dormitories in connection with Purdue University. Purdue University is an educational institution belonging to the state of Indiana, within the meaning of Ch. 189, Acts 1911; such act granting the right of eminent domain to the trustees of Purdue University; and the alleged use of the property sought to be condemned was a public one.

25487 SEEGAR v. STATE. Vanderburg Circuit Court. *Affirmed.* Martin, J. November 14, 1929.

Appellant was convicted on the charge of unlawful possession of distilling apparatus and with the operation thereof for the manufacture of intoxicating liquor. When the facts stated in an affidavit are sufficient to sustain a judicial finding of probable cause to issue a search warrant, the reviewing court will not inquire as to what knowledge the affiant had upon which he based his sworn statement of facts. The description of the premises to be searched was sufficiently definite to meet the requirements of a valid description. The dissenting opinion rests on the ground that the affidavit and search warrant do not meet the constitutional requirements of certainty.

APPELLATE COURT

13445 ANDREWS v. PALMER. Sullivan Circuit Court. *Affirmed.* Per Curiam. October 29, 1929.

Per Curiam.

13417 ANDREWS ET AL. v. MINTER COAL AND COKE CO. Marion Superior Court. *Affirmed.* Lockyear, J. November 20, 1929.

This was a suit against the principal and his surety to recover for loss alleged to have been sustained by reason of the larceny or embezzlement of the principal. It was a question for the jury to decide under proper instructions as to whether it was the duty of the treasurer of the appellee company to report a shortage of the insured, and whether the explanations and reasons given by the insured as to clerical errors and mistakes in bookkeeping were sufficient to cause a reasonably prudent person to delay in reporting to the surety that the appellant was guilty of acts sufficient to be made the basis of a claim against the company. The notice to the appellee of appellant's intention to cancel the bond falls short of being personal notice required by law, and the question of whether the appellee had sufficient knowledge of the misconduct of the insured amounting to embezzlement or larceny was, under the facts in this case, a question for the jury.

13828 BRENEZ v. INLAND STEEL CO. Industrial Board. *Affirmed.* Enloe, J. November 14, 1929.

Where there was a controverted question whether the appellant's disability was the result of an accident or was the result of disease, the burden was upon the appellant as a claimant to establish the fact that his disability was the result of an accident and although appellant had some evidence tending to establish that his disability was the result of an accident, the court cannot weigh the evidence and the award denying compensation must be affirmed.

13530 BROCK v. HARPER. Gibson Circuit Court. *Affirmed.* Nichols, J. November 14, 1929.

Action by appellee against appellant and others charging them with extortion and conspiracy to extort money from appellee and members of her family. There was evidence from which the jury might infer that appellant was a member of the conspiracy with which the defendants were charged and the reviewing court will not disturb the verdict.

13569 CHADBOURNE v. CHADBOURNE. Marion Circuit Court. *Appeal Dismissed.* McMahan, C. J. November 14, 1929.

This was an action for divorce, the prosecuting attorney having resisted and defended an action after the default of the defendant. Under Sec. 700, Burns 1926, Sec. 635 Civil Code, when a party undertakes to give notice of an appeal before the transcript is filed, the notice must not only be served on the appellant or his attorney, but it must also be served on the clerk of the court from which the appeal is taken. No notice of this appeal having been given to the clerk of the trial court, the Appellate Court is not required to determine the effect of the notice to the prosecuting attorney.

13369 COMMERCIAL SAVINGS BANK v. RABER ET AL. Jay Circuit Court. *Affirmed.* McMahan, C. J. November 21, 1929.

Action on a promissory note by appellant, indorsee-holder, against appellee, the maker of the promissory note. The evidence is sufficient to sustain a finding of "defective title" and the court cannot say, as a matter of law, that the appellant has discharged the burden of proof that it was a holder in due course, which burden was cast upon it by proof of the existence of a defective title. (Sec. 11414 Burns 1926.)

13516 COPP v. HARMON. Howard Circuit Court. *Affirmed.* McMahan, C. J. November 22, 1929.

Action by appellee for personal injuries alleged to have been caused by the negligence of appellant, the trial court giving judgment for appellee. The negligence of the appellant as well as the question of contributory negligence by the appellee was a question of fact and the reviewing court cannot say, as a matter of law, the appellee was not entitled to recover. The damages assessed are not excessive.

13786 CRAWFORD ET AL. v. GARY HEAT, LIGHT & WATER CO. Industrial Board. *Reversed.* Remy, J. November 14, 1929.

The Industrial Board having found that the deceased at the time of his death was receiving an average weekly wage of $30.00; and that his mother, one of the appellants, was wholly dependent; and not having made any finding as to the dependency of his two sisters, two of the appellants; it follows that the mother was entitled to $16.50 a week for a period of 300 weeks instead of $4.44 per week as fixed by the award.

13518 DAVIS CONSTRUCTION CO. ET AL. v. PETTY ET AL. Marion Circuit Court. *Affirmed.* Lockyear, J. November 18, 1929.

An action by certain persons who had been employed by a partnership which was under contract to perform certain work for the appellant construction company. The partnership having become insolvent and the appellant construction company, in order to enable it to carry out its own contract, having agreed to pay all persons and laborers engaged in the furnishing and delivering of sand and gravel as the same was required to be furnished by the terms of their contracts with the insolvent partnership, such agreement was not a promise to answer for the debts of another, "and from then on the laborers, the owners of wagons, teams and trucks continued with their work of hauling gravel and sand to construct the road for the appellant construction company."

13755 DOENCH v. STATE. Vanderburgh Circuit Court. *Affirmed.* Enloe, J. October 29, 1929.

Appellant was convicted on the charge of unlawfully possessing intoxicating liquor. The only question considered was whether the arrest which was made without a warrant, was a legal one. The officers needed no warrant to arrest the appellant while committing an offense in their presence.

13412 EPPERT v. LOWASH. Marion Superior Court. *Reversed.* Remy, J. November 15, 1929.

Action by appellant against appellee to recover damages for alleged conversion of certain bonds. The only question presented for review is the rulings of the court on demurrers to the complaint, the bonds in question having been sold by the appellee as pledgees with a power of sale. Disregarding the allegations of fraud the remaining facts as averred in each paragraph state a cause of action in conversion, the allegations showing that, considering the value and character of the property to be sold, the notice of the sale was too meager and indefinite and the time from the appearance in the newspaper of the first publication of notice to the day of sale was wholly inadequate.

13916 FISHER v. STATE. Elkhart Superior Court. *Affirmed.* Nichols, J. November 14, 1929.

Appellant was prosecuted under an affidavit in two counts, the first charging appellant with rape upon a female child under 16 years of age and the second charging assault and battery upon the same person at the same place and time. After the jury had been sworn and after the state had introduced its testimony and rested, the second count of the affidavit was dismissed over appellant's objection and without his consent, the jury later returning a verdict of guilty of assault and battery as charged in the first count. The court did not err in overruling appellant's motion asking that he be discharged and no sentence imposed for the reason that he had been once in jeopardy under the second count of the affidavit in which he was specially charged with the identical offense for which the verdict of the jury finds him guilty. Since assault and battery is necessarily included in the crime of rape, there was no need of a second count charging assault and battery and the second count was mere surplusage and its dismissal did not in any way prejudice appellant's rights.

13187 FLETCHER v. STUTZ AUTOMOBILE CO. OF AMERICA. Marion Superior Court. *Affirmed.* McMahan, C. J. November 15, 1929.

An action to recover damages alleged to have been sustained by reason of the failure of the appellee company to take and pay for a large number of motors in breach of a prior written contract. There was sufficient evidence to sustain a finding that appellee did not repudiate and breach the contract by refusing to take any more motors as alleged in the complaint, the contract itself expressly providing for an increase or decrease of deliveries as the appellee company might direct. See the opinion for the provisons of the contract, the evidence, and full statement of instructions.

13407 FLETCHER AMERICAN NATIONAL BANK. Hancock Circuit Court. *Affirmed.* Nichols, J. November 14, 1929.

Action by appellee against appellant bank, the appellee claiming in one paragraph of his complaint to be the equitable owner of certain funds deposited with appellant bank by a creditor of appellee and which funds have been set up by appellant against the indebtedness to appellant of the creditor of appellee; a second paragraph seeking recovery for money had

and received. See opinion for statement of the facts and the conclusion of the court.

13744 GEHRING v. OHM. Hancock Circuit Court. *Affirmed.* Neal, J. November 15, 1929.

Appellee had received judgment against appellant for an alleged assault and battery, the cause having been submitted and evidence heard in absence of appellant. Before judgment appellant filed verified motion to withdraw the "case from submission to the court for trial and judgment." The causes presented in the motion for no trial cannot be considered because the record does not contain the evidence. The trial court did not err in overruling appellant's motion to set aside this submission. The Appellate Court considers the alleged error in overruling appellant's motion to set aside submission although the opinion states that the ruling of the court in the motion "is in our judgment not ground for an independent assignment of error in appeal."

13482 GULBRANSON v. HART ET AL. Jasper Circuit. *Reversed.* Nichols, J. October 30, 1929.

Action by appellant to recover from the appellee bank represented by a check drawn in favor of the appellant upon the appellee bank, the appellee bank having refused to pay; the check in question having been given the appellant in payment for cattle under such circumstances "that the jury could not have found otherwise than that appellee held appellant's cattle and the proceeds of the sale thereof in trust for him for the payment of his check," etc. Under the evidence the court erred in directing a verdict for the appellee bank.

13495 HARRIS v. CITIZENS TRUST CO. ET AL. DeKalb Circuit Court. *Affirmed.* McMahan, C. J. November 20, 1929.

Suit by the trust company on a note and to foreclose a mortgage given to secure the same; cross-complaint by the appellant. See opinion for full statement of allegations in complaints and answers, and for finding of facts by the court and conclusions of law based thereon.

13339 HART v. HART. Rush Circuit Court. *Affirmed Conditionally.* McMahan, C. J. November 1, 1929.

In a divorce proceeding instituted by appellant, divorce was granted appellant on his complaint, and there was a charge against appellee on her cross-complaint; the final decree of the court awarding appellee judgment for alimony in the sum of $2,350 and $150 "as and for a fee for defendant's attorney." Under Sec. 1109 Burns 1926, no allowance can be made in the final order for attorney's fee in favor of the wife when decree of divorce is granted the husband on his application, and the court erred in making an allowance as and for attorney's fees.

13707 HOVER v. HOVER. Kosciusko Circuit Court. *Affirmed. Per Curiam.* November 1, 1929.

Per Curiam.

13570 HULLETT v. CADICK MILLING CO. Warrick Circuit Court. *Reversed.* Nichols, J. November 14, 1929.

Action by appellee to recover a certain sum of money which appellee alleges was paid to appellant through mistake. Under the circumstances as disclosed by the special findings, the court applies the rule that there can be no recovery if by reason of the payment the party receiving it has so changed his position to his prejudice that it would be unjust to require him to refund.

13874 KAMINSKI v. STATE. Lake Circuit Court. *Affirmed.* Lockyear, J. November 12, 1929.

Appellant was convicted on the charge of unlawful possession of intoxicating liquor. Officers may identify intoxicating liquor through the sense of smell of the liquor and a chemical analysis is not necessary to establish the fact that the liquor is intoxicating. The seal of the prosecutor or his deputy is not required to affidavits sworn before him in his official capacity, but only in other cases where he assumes to act as a notary public.

13510 KORING v. VARNER. Vanderburgh Superior Court. *Affirmed.* Neal, J. November 13, 1929.

An action to recover for work and labor performed and materials and supplies furnished and for the foreclosure of a mechanic's lien. Since the appellant furnished the labor and material under a contract with a general contractor, and not with appellee, and since appellant did not give appellee notice of any intention to hold him personally responsible as provided by Sec. 9839 Burns 1926, appellant could not recover on the theory of *quantum meruit* or contract. The appellant did not file his notice of intention to hold the lien within the time fixed by the statute. Work by the appellant after he had completed his work as provided for in the contract with the general contractor, without the direction of either the owner or general contractor, was not for the purpose of completing his work "but an attempt to bring to life a right to file a lien which had been dead for several months."

13147 LAFAYETTE STREET RY. CO., INC. Tippecanoe Superior Court. *Petition for rehearing denied.* Nichols, J. November 22, 1929.

Where the opinion of experts established that radiographs would be unintelligible to the jury the best evidence was not the plates themselves but the testimony of one skilled in their interpretation.

13499 LAKER v. LAKER. Dearborn Circuit Court. *Reversed.* Lockyear, J. October 29, 1929.

An action by the appellant against her husband to obtain provisions for support of herself and children under Burns 1926, Sec. 8752. The statute provides for a proceeding in rem only to apply property of husband to the support of the wife and children, and does not authorize a personal judgment or order against the husband for any amount; the judgment in question against the appellee is contrary to law.

13444 THE LONDON AND LANCASHIRE INS. CO., LTD. OF LONDON v. MASON ET AL. Lake Superior Court. *Affirmed.* Lockyear, J. November 18, 1929.

An action based upon an insurance policy issued by the appellant to appellees. Denial of liability waives all right to claim want of notice or proof of loss. Since under Burns 1926, Sec. 419, where a variance is not material, the court may direct the fact to be found according to the evidence or may order an immediate amendment without costs, the court may so find the fact when the trial is before the court; and since the complaint might have been amended in the court below to correspond to the proof, it will be deemed to have been so amended here.

13520 LYONS v. MERCHANTS NATIONAL BANK. Hamilton Circuit Court. *Affirmed.* Lockyear, J. November 12, 1929.

The only error assigned is the alleged error in overruling appellant's motion for a new trial. The appellant's brief does not contain the motion, nor does it present any other question for the court's consideration.

13945 MCGLYNN v. STATE. Marion Criminal Court. *Affirmed.* Enloe, J. November 14, 1929.

The appellant's brief is insufficient to present any question by reason of failure to include therein the motion for a new trial.

13888 MISKOVICH v. STATE. Lake Criminal Court. *Affirmed.* Lockyear, J. November 20, 1929.

Appellant was convicted on the charge of possessing intoxicating liquor. The oral evidence heard by the judge of the city court issuing the search warrant was sufficient to sustain the finding of probable cause for issuance of a search warrant.

13492 MORRIS v. TRINKLE. Vigo Superior Court. *Affirmed.* McMahan, C. J. November 19, 1929.

Action by appellee against appellant to recover for alleged breach of warranties under contract for purchase of an automobile, with a second paragraph based on alleged fraudulent representations. The appellant having recovered possession of the automobile, which had been sold under a conditional sale contract, cannot keep the car and the amount which the appellee paid in for the car. The evidence was sufficient to sustain the finding that the car which was sold at a price of $2,099 was worth only $1,300. When appellant sold the automobile under an order or contract which was to the effect that the only guarantee given was "that which the Buick Motor Co. gives in their published catalog, a copy of which guarantee is printed on the reverse side of this contract," etc., the appellant thereby adopted such warranty as his own.

13795 PIVAK v. STATE. Lake Criminal Court. *Affirmed.* Remy, J. November 20, 1929.

Appellant was convicted on the charge of unlawful possession of intoxicating liquor. The overruling by the trial court of a motion to suppress

certain evidence should be assigned as a reason for a new trial under Clause 1, Sec. 2820, Code of Criminal Procedure, and not assigned as a reason for a new trial under Clause 7, Sec. 282, Code of Criminal Procedure (Sec. 2325 Burns 1926).

13060 PONETO ET AL. v. KIMMEL. Adams Circuit Court. *Affirmed.* Enloe, J. November 12, 1929.

This was an action to recover an alleged balance of money held by the appellant bank. When the evidence is sufficient to sustain the averment that the appellant bank denied all liability to the appellee depositor, it is not necessary for the appellee to prove a proper demand upon the bank for money held by it upon deposit. There was no error in the matter of giving and refusing instructions, and it was not error to exclude the "blotter books."

13889 POTTER v. STATE. Steuben Circuit Court. *Affirmed.* McMahan, C. J. November 14, 1929.

Appellant was convicted under a charge of maintaining a liquor nuisance. When a statute makes punishable the doing of one thing *or* another an indictmnet under such a statute may allege, in a single ccunt, that the defendant did as many of the forbidden things as the pleader chooses and the pleader may employ the conjunction "and" when the statute makes use of the word "or", and the evidence will be sufficient to sustain a conviction if any one of the forbidden acts is established at the trial. A refused instruction is not brought into a record in the Appellate Court by having the clerk certify to the Appellate Court the original special bill of exceptions whereby such instruction was made a part of the record in the trial court; *it is only original bills of exceptions containing the evidence given in the record that can be certified to the Appellate Court without copying.*

13515 RASMUSSEN v. THE HELEN REALTY CO. Marion Superior Court. *Affirmed.* Enloe, J. November 22, 1929.

Action to recover a sum of money deposited agreeable to the provisions of a certain lease to secure the performance of the covenants in the lease; the first paragraph of the complaint being based upon the provisions of the lease as to the return of the money placed on deposit, and the second paragraph being for money had and received. The trial court having found that the lessee had breached the covenants of the lease, the plaintiff was not entitled to recover upon the first paragraph. The trial court's first conclusion of law "that the plaintiff was not entitled to recover anything in this action", was broad enough to cover the issues made by the complaint and the answers thereto; the second and third conclusions may be disregarded as unnecessary, these being in substance that the defendant was not entitled to retain the sum deposited as liquidated damages, and that the sum deposited is to be regarded as liquidated damages and not as a penalty. The deposit, in view of an express stipulation, was held as a pledge to secure the payment of certain items of indebtedness which were included in the findings of the trial court.

13439 RIGGEN v. THE MUTUAL LIFE INS. CO. OF NEW YORK. Vigo Superior Court. *Affirmed. Per Curiam.* October 30, 1929.

Per Curiam.

13573 SCHNEIDER v. GREEN. Marion Municipal Court. *Reversed.* Neal, J. October 30, 1929.

Reversed on the authority of *Feldman v. Elmore,* 88 Ind. App. 335, 163 N. E. 846.

13334 SECURITY UNDERWRITERS, INC., v. LONG. Marion Superior Court. *Affirmed.* Nichols, J. November 22, 1929.

Action by appellee against appellant on a policy of insurance to recover $800 for damage to a truck alleged to have been destroyed by fire, while insured with appellant company. Even though the trial court committed error in overruling a demurrer to a complaint was prejudicial or harmless, since the evidence disclosed that the defendant insurance company had waived the breach of warranty which was disclosed by the complaint, the appellant contending that the breach of warranty constituted a complete defense to the claim. It is the duty of the court, in determining whether error in overruling a demurrer to a complaint was prejudicial or harmless, to look to the whole record, and if it appear therefrom that the case was fairly tried upon its merits and a right result reached, the error of the court will be held to be harmless.

13512 SOROKA ET AL. v. KNOTT. Lake Superior Court No. 2. *Reversed.* Lockyear, J. November 20, 1929.

This was an action to recover rent alleged to be due under a lease. Under the facts of the case no valid lease was executed and the relation of landlord and tenant never existed between the appellants and the appellee. If the appellee had a claim against appellants for the use and occupancy of the premises in question for the time the appellants occupied the same, this was a provable claim against the appellants in bankruptcy and was discharged by bankruptcy proceedings.

13564 SPOONER v. RUDDICK. Marion Municipal Court. *Affirmed. Per Curiam.* October 30, 1929.

Per Curiam.

13790 STANDARD DEVELOPMENT CO. v. BROZ ET AL. Marion County. *Affirmed.* Neal, J. November 13, 1929.

Suit by the appellant for an alleged wrongful taking of possession under a writ of replevin, one defendant being a duly elected, qualified and acting constable who had appointed his co-defendant to serve the writ in the replevin suit. It was not the intent of the legislature (Acts 1925, p. 401) in amending Sec. 1 of an Act approved May 13, 1852, to abrogate the power given by the common law to a sheriff, deputy, bailiff or constable to appoint a deputy for a particular service, when the act to be performed would be perfectly valid if performed by the regularly appointed or elected constable.

12324 STANDARD OIL CO. OF INDIANA v. MASON ET AL. Gibson County. *Affirmed.* Nichols, J. November 14, 1929.

Action by appellant for the purpose of asserting a lien upon a fund raised for payment for the construction of a public drain constructed under the provisions of the Drainage Act of 1907, said lien arising from furnishing of materials used in the construction of the dran. The Public Works Act (Acts 1925 Ch. 24, Secs. 6121-6123, Burns 1926) on which appellant bases its claim to a lien does not cover a public work under the supervision and direction of the court.

13529 STORK v. WISHART. Vanderburgh Superior Court. *Affirmed.* McMahan, C. J. November 13, 1929.

Suit by appellee to recover for damages to his automobile received in a collision alleged to have been caused by the negligent operation of appellant's automobile while being driven by a servant. Appellee's contributory negligence was a question of fact for the jury and the evidence is sufficient to sustain the finding that he was not chargeable with contributory negligence.

13918 SWARAT v. STATE. Marion Criminal Court. *Affirmed.* Remy, J. November 1, 1929.

Appellant and two others were convicted on the charge of conspiracy to commit a felony. The law is well established that a conspiracy to commit a felony as the offence is defined by statute (Acts 1925, p. 580, Sec. 2882 Burns 1926) need not be proved by direct evidence. The evidence was sufficient to sustain the finding of the court.

13531 UNION CHRISTIAN COLLEGE v. COFFMAN ET AL. Sullivan Circuit Court. *Affirmed. Per Curiam.* October 30, 1929.

Per Curiam.

13381 VICTOR PISTON PIN CO. v. GALLAGHER. Marion Superior Court. *Affirmed. Per Curiam.* October 29, 1929.

Per Curiam.