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Chapter 1 : George H. W. Bush - Wikipedia

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Decided March 15, Rehearing Denied April 9, Harvey Levin, Philadelphia, Pa. Grant McCabe, 3d, Philadelphia, Pa. Walter Helm, 3d, Philadelphia, Pa. Davis, Third Party Defendant, Appellee. Halprin, mother of Lawrence W. Halprin, a year-old boy who died as a result of injuries sustained in an automobile collision, appeals from a judgment entered in favor of defendant Andre Mora and third-party defendant Clarence W. Mora was driving the car in which the boy was riding when the collision occurred. Mora brought in as third-party defendant Clarence W. Davis, driver of the other car involved in the collision. Thus, says plaintiff, no matter who the jury believed, it could not reasonably have found that neither driver had been negligent. Mora testified that he was traveling east in the southernmost lane and pulled into the center lane to pass another car. While he was passing in the center lane, a light-colored car traveling west pulled out of the northernmost lane into the center lane. Mora said that he put on his brakes. The movement of the light-colored car into the center lane by which Mora was confronted with a sudden emergency could have been the cause of the accident. But, says the plaintiff, there was no such car. In addition, he said that he did not see the center-lane car pull back into the northernmost lane, which was where the collision occurred, and at one point he said he did not know what happened to the center-lane car after he swerved into the northernmost lane. Patterson, , Pa. Myers, , Pa. It is incumbent upon the plaintiff to prove the skidding resulted from the negligent act of the defendant; otherwise he is absolved from the consequences. In the case at bar the evidence warranted an inference that the Mora car had skidded or swerved onto the wrong side of the road. Solski, , Pa. The court said that since there was evidence that a depression in the right side of the road caused the car to veer to the left, and since no negligence on the part of the driver had been shown, the driver was entitled to a judgment. This point is presented in a most general manner, but the plaintiff does tell us that the jury was confused and uncertain as to the meaning of questions put to it and the effect of their answers. See Rule 51, Fed. We have examined the questions and answers and considered their effect. They are as follows: Was there any negligence on the part of Mr. Mora which was a substantial factor in bringing about the accident? Davis which was a substantial factor in bringing about the accident? It seems clear from the record, first of all, that plaintiff did not think the answers were contradictory when the jury presented them. Polling of the jury was requested by plaintiff on the first two questions only. Nor does it appear from the record furnished us that any point covering the possible conflict in the answers was pressed before the district court on the motion for a new trial. The district court told the jury that the questions were entirely separate and that they were to answer all four questions. The court said it would know what to do with the answers because that was a matter of law. If that is the purport of the questions, then, of course, the answers to questions three and four are not inconsistent with the answers to questions one and two. This is so because, under Rule 49 b , when a general verdict is accompanied by special interrogatories, such as we have here in questions one and two, the court may consider the special verdict controlling. Mora was proceeding downgrade at forty to forty-five miles per hour, in the course of overtaking another vehicle traveling in the same direction. For Mora, the collision occurred on the wrong side of the highway, with a vehicle traveling in the opposite direction. At this point, and there is no dispute, under the Pennsylvania law, a prima facie case of negligence was made out against Mora, and unless he established, i. But this is, in my opinion, not the whole picture. The rule of those cases, that skidding does not establish negligence, can be of no assistance here. Rather the instant case must be approached from the broader view, whether the circumstances demonstrate lack of neglect. And the only theory pertinent or proposed is that Mora came upon an emergency created by the light-colored vehicle entering into the lane which Mora was traveling. Mora testified and reiterated 1 his testimony that he saw the light-colored vehicle turn into and proceed toward him on the center lane. In the face of this obvious danger, and while speeding at forty to forty-five miles per hour, Mora testified he waited for the light-colored vehicle to turn back. Mora did not apply his brakes to decelerate. He did not even remove his foot from the

accelerator. If he skidded, then in these circumstances the skidding is not what the Pennsylvania Supreme Court would treat as an exculpating explanation within the holdings of the Richardson and Ferrell holdings. Gorga, , Pa. For this error, only a new trial is the remedy. Also if the brakes were faulty, it was by no means beyond the jurisdiction of the jury to find that Mora failed to establish either that he did not abuse them by his action at the time of the accident, or that he failed to establish, as it was his burden to do, that he had no reason to anticipate the fault. For on this score, Mora did not say that his brakes were faulty, but that he did not know what happened. Indeed, the evidence of tire marks on the highway discloses that his brakes held him on a straight course for sixty feet. He introduced no evidence as to when the brakes were tested, or that he himself tested them. He did say that they worked all right before and that he had no trouble with them, but admitted he never had occasion to use them with such force. Yet the learned trial judge, perhaps unintentionally took these issues from the jury, by instructing it at the very last. There is no doubt that the questions submitted to it, quoted by the majority, do not fit the scheme of special determinations of facts contemplated by Rule 49, F. It is observed that this rule specifically limits the jury to findings of fact. Inherent in the device of the special verdict is the severance of fact from the law. It is this very separation which has inspired writers to comment so favorably upon its use. The jury was asked to determine whether either defendant was negligent and such negligence was a substantial factor in causing the injury. United States, 2 Cir. Perhaps the jury would have understood this simple situation much better if questions three and four relating to awarding of damages were conditioned upon the affirmative answer to the first two relating to negligence. Undeniably, where a general verdict is sought, the jury must be charged as to all of the law. Rule 49 b so provides. Mora guilty of negligence which contributed to the accident. There was patent confusion in the minds of the jurors, upon which they sought, but did not receive, clarification. Moreover, the determination of an award of damages seems to me to be closer, first, to the real intent of the jury as to its verdict, and second, to the special finding of fact intended to be controlling in Rule 49 b. He had bought it used, and it had been inspected.

Chapter 2 : Economic policy of the George W. Bush administration - Wikipedia

george w. hammond, administrator de bonis non of thomas hammond, deceased, and others, appellants, v. lorenzo lewis, executor of lawrence lewis, deceased, who was the acting executor of gen.

The facts in the case were these. General Washington, by his will, executed in , devised all the rest and residue of his estate, real and personal, not before disposed of by said will, to be sold by his executors, at such time, in such manner, and on such credits, if an equal, valid, and satisfactory distribution of the specific property could not be made without, as in their judgment should be most conducive to the interest of the parties concerned; and the moneys arising therefrom to be divided into twenty-three equal parts. On the 19th of July, , the executors assembled the legatees, with a view to consult them upon certain questions arising under the will; and it was agreed that a certain portion of the personal estate should be sold, another portion divided, a certain portion of the lands divided, and the residue sold by the executors. On the 6th of June, , a meeting of the devisees was held, at which it was agreed that certain lands, lying on the eastern waters, should be sold, and, if purchased by the devisees, such purchaser should pay at three equal annual instalments with six per cent. On the 12th of March, , Ashton mortgaged to the executors three tracts of land in Jefferson cunty, Virginia, amounting in the whole to one thousand and seventy-six acres, to secure the payment of the purchase which he had made, as above stated. On the 11th of March, , the executors assigned the mortgage to Thomas Hammond, who was entitled to a full distributive share in right of his wife, and attached to the assignment the following memorandum. The result of such sale is thus stated in the opinion of the Circuit Court, delivered in a subsequent stage of the cause. A special auditor was appointed to state the accounts of the parties. In , the executors filed a cross bill, alleging that all the parties were not in court, and praying that they might all be brought in. The proper proceedings were accordingly had as to the absentees, and in the Circuit Court passed a decree directing the sums to be paid to the several legatees, with the exception of the administratrix of Thomas Hammond and of Burdett Ashton. From which decree, the administratrix appealed to this court. Coxe, for the appellant. This suit was originally of an amicable character, and was instituted at the request of the executors of General George Washington, by the legatees under his will, with a view to a definitive settlement of the accounts of the executors and a distribution of the estate. Subsequently to its institution, a cross bill was filed by the executors for the purpose of covering some of the legatees, who had been omitted in the prior proceedings, and the two causes were prosecuted and decreed upon as one suit. The facts out of which the questions now presented for consideration have arisen, are substantially the following. General Washington, after having disposed of a portion of his estate, devised all the residue of his real and personal property to be sold by his executors, if it could not be equally and satisfactorily divided, and directed the proceeds to be divided into twenty-three equal shares, and distributed by shares and parts of shares, amongst twenty-nine persons named, and others not named, but designated by a collective description. Amongst those having an interest in the estate was Mildred Hammond, the wife of Thomas Hammond, in whose right the appellant claims one share of the twenty-third part of the residue. Several of the residuary legatees became purchasers at the sales made by the executors, some for more, others for less than their shares or parts of shares to which they were entitled. They gave securities for the amount of their purchases, as other purchasers would have been required to do, with an understanding that their several shares of the estate, when ascertained, should be credited against the sales respectively made to them. Among those legatees who purchased to an amount exceeding their shares was Burdett Ashton, who was entitled to one-third of one share in his own right, and to one other third of a share in right of a sister, together equal to two-thirds of one-twenty-third or full share of the residuum subject to distribution. The court decreed a foreclosure of the mortgage, and a sale of the mortgaged premises to raise the balance due from Ashton. The sale made under the decree produced a sum considerably less than the amount of the debt from Ashton to the executors of Washington. In the record in this cause are found accounts stated under orders of the Circuit Court between the executors of Washington and the distributees, under the will of their testator. The Circuit Court, upon the hearing of this cause, being of the opinion that Hammond was absolutely bound to the executors of General Washington for whatever

amount the mortgage debt of Ashton exceeded the share of Mrs. It is difficult to reconcile such a course on the part of Hammmond with rules of common prudence or probability, nor can a calim to power in the executors to make such an exaction upon Hammond be viewed as consistent with fairness, or as called for by any obligation incumbent upon these executors. They had no power to impair in any degree his claim upon them, nor to impose a mean for its payment, less certain and safe than the assets acknowledged by them to be adequate. We have shown that this conclusion is in accordance neither with prudence nor probability, in the transactions of life that it was not sustained by any duty, or even by fairness on the part of the executors; let us see how far it is warranted by the language of the instruments referred to as amounting to express and positive contract. In the written assignment to Hammond, this is the language used: Such terms were indispensable in that assignment, in order to give to Hammond control of the mortgage, either for its enforcement in his own behalf or for its transfer to others: With regard to these, then, there was no uncertainty. The supposition, therefore, expressed in this instrument could have no applicability to matters thus ascertained; that supposition could have been designed to apply only to the contingency of the mortgage subject producing a sum greater than the distributive share of Hammond in the estate; in which event, he was to be responsible for the excess, and for nothing beyond it. This provision cannot be correctly interpreted as binding Hammond, however inadequate the mortgage subject might prove to meet his share of the assets, to carry into the estate and pay to the executors a sum he never had received, and which, from the nature of things, he could not possibly receive; in other words, to pay to these executors his own money. These obligations appear to have been fulfilled, for the executors who were made parties to the suit for foreclosure take no exception to any thing that had been done or omitted in reference to the security they had transferred. This court doth accordingly reverse the decree of the Circuit Court, with costs, and remand this cause thereto, to be proceeded in conformably to the principles of this decision. This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Columbia, holden in and for the county of Alexandria, and was argued by counsel. On consideration whereof, it is now here ordered, adjudged, and decreed by this court, that the decree of the said Circuit Court, in this cause, be and the same is hereby reversed with costs, and that this cause be and the same is hereby remanded to the said Circuit Court, with directions to proceed therein conformably to the opinion of this court. Hammond also died, and his administratrix became a party; but the suit having been an amicable one, this did not delay the proceedings. It is mentioned only because sometimes the one and sometimes the other is spoken of as the person interested.

Chapter 3 : George W Lawrence () - Find A Grave Memorial

Mississippi DATE OF DEATH: 15th day of December, On the 10th day of March, , the Circuit Court of Bradley County, Arkansas, Probate Division, appointed the undersigned as Ancillary Administratrix of the Ancillary Estate of the decedent in Arkansas.

Adler; Matthew Albright; Kanyia J. Receive free daily summaries of new opinions from the U. Court of Appeals for the Fourth Circuit. Subscribe Daniel Adams; Robert C. Bailie; John Banks; James R. Blount; William Brady; Larry D. Chadwick; David Chereskin; Robert E. Corbett; Tim Costello; Robert L. Glaubke; Robert Glaubke; Charles E. Inks; Steve Jiannine; Daniel H. Lorson; John Loushe; Shane J. Martin; Stephen Massenburg; Robert M. Mccullin, Iii; Carol M. Mikell; Gail Montgomery; William H. Murray; Scott Nash; Brian P. Nichols; Anthony Norty; Frank S. Phillips; Norman Pool; Clifford F. Porter, Iii; Michael W. Rannigan; John Rawlings, Jr. Roeske; Christopher Rogers; Michael L. Rouse; Frank Russo;william L. Sabourin; Paul Edward Savage, Jr. Seitz; Reginald Shirley; Richard P. Steele; Richard Studebaker; Michael L. Thompson; Carl Throckmorton; Roland G. Toffton; William Tull; John A. Utegg; Elijah Vaughn; Timothy L. Wilks; Garry Windley; Charles C. Wood; Malcolm Wooldridge; Paul A. Ziegler; Jason Blow; Roger T. Burris; Clifton Chisum; Tracy W. Hagwood; Carnell Marsh; Rodney M. Court of Appeals for the Fourth Circuit - F. Doumar, Senior District Judge. Stanley Graves Barr, Jr. We conclude that, because appellants are employees engaged in fire protection activities within the meaning of section Department of Labor regulations define an employee engaged in "fire protection activities" as one 1 who is employed by an organized fire department or fire protection district; 2 who has been trained to the extent required by State statute or local ordinance; 3 who has the legal authority and responsibility to engage in the prevention, control or extinguishment of a fire of any type; and 4 who performs activities which are required for, and directly concerned with, the prevention, control or extinguishment of fires, including such incidental non-firefighting functions as housekeeping, equipment maintenance, lecturing, attending community fire drills and inspecting homes and schools for fire hazards. That is, appellants acknowledge that they work for a fire department. As to the second of these requirements, the district court found, and appellants do not deny, that they all have obtained "the base fire-certification level of Firefighter II with the Commonwealth of Virginia. As to the third requirement, appellants do not dispute that they are "legally required to, and ha [ve] actually engaged in suppression, control and extinguishment of fires on behalf of the NFPS. And as to the final requirement, appellants admit that when they are not responding to fire emergency calls, they participate in, among other things, fire training, fire drills and inspections, and perform equipment maintenance, Br. Because appellants satisfy all four requirements of section Appellants contend, however, that even if they do meet the requirements of section During these shifts, appellants may be tasked to fight fires, render medical services at scenes of fire emergencies, or perform medical services at non-fire emergencies. Both fire units and EMS units respond to fire emergencies. If an EMS unit is the first on the fire scene, it may well fight the fire, leaving medical services to be performed by a back-up rescue unit. If the fire unit is first to the scene, then the EMS unit performs medical services, if it is not otherwise needed. It goes without saying that when appellants fight fires, whether on duty with a fire unit or with an EMS unit, they are engaged in fire protection activities. It is no less obvious that the performance of medical duties at the scene of a fire is, at the very least, "incident to or in conjunction with" fire protection activities, and appellants do not contend otherwise. First, even when appellants are responding to non-fire emergencies, they are, of course, yet trained firefighters. Second, while at non-fire emergencies, appellants may be called away to fire emergencies, see Br. Third, when called away from a non-fire emergency, appellants must and do, when directed, actually fight fires. We have concluded that firefighters who are cross-trained as EMS employees qualify for exemption under [S k] as fire protection employees where they are principally engaged as firefighters meeting the four tests outlined in 29 C. Not only do appellants meet the criteria of section To establish dispatch "regularity," one must show "some frequency," which "would seem best proved by two kinds of evidence" -"evidence that many fire or police dispatches include EMS teams" and or "evidence that numerous EMS calls were dispatched to section County of

Lexington, F. The existence of "a regular procedure. Appellants admit in their affidavits that the City has in place a standardized procedure the Unit Response List for the notification of, and dispatch to, firefighting events. Furthermore, the district court correctly concluded, based on the Unit Response List, J. That is, on average, rescue units respond to This evidence amply demonstrates that appellants are "regularly dispatched" to fires and other accidents. County of Prince William, F. That appellants engage in personal activities while awaiting calls, whether fire or medical, does not alter our analysis. The intervals between calls are nonetheless "incident to. Appellants incorrectly believe that our decision in West v. Anne Arundel County, F. In West, the county sought to apply the section 7 k exemption to employees, who, although trained in firefighting, performed only EMS duties. We held that the employees there not only did not meet the section In stark contrast to appellants, the West plaintiffs spent all of their time in the Emergency Medical Services division, and "were prohibited by standard operating procedure from engaging in fire suppression activities. Ambulance and rescue service employees of a public agency other than a fire protection.

Chapter 4 : "Pauline W. Hall, Administratrix, etc., v. George W. Payne, Administrat"

LOUISA SAUER, Gertrude Crane, Individually and as Administratrix of George W. Sauer, Deceased, et. al., Plffs. in Err., v. CITY OF NEW YORK.

Trade policy[edit] U. Current Account or Trade Deficit. The Bush administration generally pursued free trade policies. Bush used the authority he gained from the Trade Act of to push through bilateral trade agreements with several countries. The sizable decline in U. The millions of construction jobs created during the housing bubble that peaked in helped mask some of this adverse employment impact initially. Further, households dramatically increased their debt burden from , extracting home equity for use in consumption. However, the housing bubble collapse in contributed to the subprime mortgage crisis and resulting Great Recession , which resulted in households switching from adding debt to paying it down, a headwind to the economy for several years thereafter. Developing countries blamed the US and the EU for stagnated negotiations since both maintain protectionist policies in agriculture. While generally favoring free trade, Bush has also occasionally supported protectionist measures, notably the United States steel tariff early in his term. Supporters of DR-CAFTA claim it has been a success, [42] but detractors still oppose the agreement for a variety of reasons including its impact on the environment. Financing the trade deficit required the USA to borrow large sums from abroad, much of it from countries running trade surpluses, mainly the emerging economies in Asia and oil-exporting nations. A significant portion of this borrowing was directed by large financial institutions into mortgage-backed securities and their derivatives, a factor that contributed to the housing bubble and the crises that followed. The trade deficit peaked in along with housing prices. Social Security debate United States President Bush advocated the partial privatization of Social Security in , but was unsuccessful in achieving any reforms to the program against strong congressional resistance. His proposal would have diverted some of the payroll tax revenues that fund the program into private accounts. Critics argued that privatizing Social Security does nothing to address the long-term funding challenge facing the program. Diverting funds to private accounts would reduce available funds to pay current retirees, requiring significant borrowing. President Bush advocated the Ownership society , premised on the concepts of individual accountability, smaller government, and the owning of property. Critics have argued this contributed to the subprime mortgage crisis , by encouraging home ownership for those unable to afford them and insufficient regulation of financial institutions. The bill never made progress in Congress, facing sharp opposition by Democrats. All the handwringing and bedwetting is going on without remembering how the House stepped up on this. What did we get from the White House? We got a one-finger salute. Alan Greenspan [54] President Bush and his economic experts did not adequately address fundamental changes in the banking sector which had taken place over the two decades prior to the crisis. The essentially unregulated shadow banking system e. Nobel laureate Paul Krugman described the run on the shadow banking system as the "core of what happened" to cause the crisis. Influential figures should have proclaimed a simple rule: Our 21st century global economy remains regulated largely by outdated 20th century laws. Financial Crisis Inquiry Commission Report , p. GDP declined in the 1st, 3rd, and 4th quarters of by The recession officially lasted from December to June , with the economy returning to consistent growth in Q3 , [3] although civilian employment did not return to its December peak until September For example, vulnerabilities included failure to regulate the risk-taking of the non-depository banking sector, the so-called shadow banks such as investment banks and mortgage companies. These companies had outgrown the regulated depository banking sector, but did not have the same safeguards. Further, financial connections were established between the depository banks and shadow banks e. Certain types of derivatives, essentially bets on the performance of other securities, remained largely unregulated and were another opaque source of dependencies. Investors became unsure of the value of the securities loan collateral held by the shadow banks, as many derived their value from subprime mortgages. Mortgage companies could no longer borrow money to originate mortgages, and many failed in The crisis accelerated in , as the largest five U. They had grown increasingly dependent on short-term sources of financing e. These investment banks were forced to sell long-term securities at fire-sale

prices to meet their daily financing needs, suffering enormous losses. Concerns about the possible failure of these banks led the financial system to essentially freeze by September The Federal Reserve increasingly intervened in its role as lender of last resort to stabilize the financial system as the crisis deepened. In March , Bear Stearns , a major US investment bank heavily invested in subprime mortgage derivatives, began to go under. In July, IndyMac went under and had to be placed in conservatorship. In the middle of the summer it seemed like recession might be avoided even though high gas prices threatened consumers and credit problems threatened investment markets, but the economy entered crisis in the fall. Fannie Mae and Freddie Mac were also put under conservatorship in early September. A few days later, Lehman Brothers began to falter. Treasury Secretary Hank Paulson , who in July had publicly expressed concern that continuous bailouts would lead to moral hazard , decided to let Lehman fail. Without enough cash to pay out its Lehman-related debts, AIG went under and was nationalized. Credit markets locked up and catastrophe seemed all too likely. Congressional Democrats advocated an alternative policy of investing in financial companies directly. Congress passed the Emergency Economic Stabilization Act of , which authorized both policies. He kept a low public profile on the issue with his most significant role being a public television address where he announced that a bailout was necessary otherwise the United States "could experience a long and painful recession. President, measured as cumulative percentage change from month after inauguration to end of term. Economic growth for the to business cycle compared to the average for business cycles between to This was slower than the 2. Using the home as a source of funds also reduced the net savings rate significantly. The other economies are Canada, the European Union, and Japan. As the Great Recession deepened, the rate rose again to 6. It peaked at 9. It then fell rapidly during the Great Recession, to It continued falling thereafter to a trough of January and March had roughly the same level of non-farm private sector jobs. It finished at 2. When housing prices fell, but the value of the mortgage debt generally did not, many homeowners found themselves in a negative equity position underwater on their homes, driving a significant housing payment delinquency and foreclosure problem. This caused investors to question the value of mortgage-backed securities held by financial institutions, contributing to the run on the shadow banking system. Median household income has more than kept up with inflation since Bush took control of fiscal policy during the near-recession, growing 1. Comparing and , the lowest and highest quintiles of the income distribution had a larger share of the after-tax income, while the middle three quintiles had a lower share.

Chapter 5 : George W. Lawrence - IMDb

Born in unknown and died in 31 Aug Washington, District Of Columbia George W Lawrence.

Sauer, the intestate of the plaintiffs in error hereafter called the plaintiff , became, on July 1, , the owner in fee simple of a parcel of land on the corner of One Hundred and Fifty-fifth street and Eighth avenue, in the city of New York. There was then upon the land a building used as a place of public resort. The city of New York was and is the owner of the fee of One Hundred and Fifty-fifth street and Eighth avenue, which it holds in trust for the public for highways. Before the passage of the act hereinafter referred to One Hundred and Fifty-fifth street had been graded from Eighth avenue in a westerly direction, until it reached a high, and, for street sues, impassable, bluff, on the summit of which ran St. Nicholas place, a public highway. The street, as laid out on the records, ascends the bluff, and continues westerly to the Hudson river. In the legislature of the state of New York enacted a law which authorized the city of New York, for the purpose of improving and regulating the use of One Hundred and Fifty-fifth street, to construct over said street from St. There was no provision for damages to the owners of land abutting on the street. Subsequently the viaduct was constructed, resting upon iron columns placed in the roadway. The surface of the viaduct consisted of asphalt and paving blocks laid on iron beams. At the junction of the street with Eighth avenue it is widened into a quadrangular platform, 80 by feet in extent. This action was brought to enjoin the defendant from maintaining the viaduct, or, in the alternative, for the recovery of damages caused by it. There was judgment for the defendant by the supreme court, affirmed by the appellate division and the court of appeals. Elkus and Carlisle J. Gleason for plaintiffs in error. Theodore Connoly and Terence Farley for defendant in error. Anderson and Chandler P. Anderson for certain property owners similarly situated. Justice Moody, after making the foregoing statement, delivered the opinion of the court: The acts of the defendant for which the plaintiff sought a remedy in the courts of New York may be simply stated. The plaintiff owned land with buildings thereon situated at the junction of One Hundred and Fifty-fifth street and Eighth avenue, two public highways, in which the fee was vested in the city upon the trust that they should be forever kept open as public streets. As One Hundred and Fifty-fifth street was graded at the time the plaintiff acquired his title, it was isolated to a considerable extent from the street system of the city. Its west end ran into a high and practically impassable bluff, which rendered further progress in that direction impossible. Under legislative authority the city constructed, solely for public travel, a viaduct over One Hundred and Fifty-fifth street, beginning at the bridge and thence running with gradual ascent to the top of the bluff. This viaduct enabled travelers to use One Hundred and Fifty-fifth street, in connection with other streets of the city, from which it had previously been disconnected. The plaintiff, in his complaint, alleged that this structure was unlawful, because the law under which it was constructed did not provide for compensation for the injury to his private property in the easements of access, light, and air appurtenant to his estate. The court of appeals denied the plaintiff the relief which he sought, upon the ground that, under the law of New York, he had no easements of access, light, or air, as against any improvement of the street for the purpose of adapting it to public travel. In other words, the court in effect decided that the property alleged to have been injured did not exist. The reasons upon which the decision of that court proceeded will appear by quotations from the opinion of the court, delivered by Judge Haight. As such owners they are subject to the right of the public to grade and improve the streets, and they are presumed to have been compensated for any future improvement or change in the surface or grade rendered necessary for the convenience of public travel, especially in cities where the growth of population increases the use of the highways. The rule may be different as to peculiar and extraordinary changes made for some ulterior purposes other than the improvement of the street, as, for instance, where the natural surface has been changed by artificial means, such as the construction of a railroad embankment, or a bridge over a railroad, making elevated approaches necessary. But as to changes from the natural contour of the surface, rendered necessary in order to adapt the street to the free and easy passage of the public, they may be lawfully made without additional compensation to abutting owners, and for that purpose bridges may be constructed over streams and viaducts over ravines, with approaches thereto from intersecting streets. In the case under consideration, as we

have seen, One Hundred and Fifty-fifth street continued west to Bradhurst avenue. There it met a steep bluff 70 feet high, on the top of which was St. The title of the street up the bluff had been acquired and recorded, but it had never been opened and worked as a street. The bluff was the natural contour of the surface, and, for the purpose of facilitating easy and safe travel of the public from St. Nicholas place to other portions of the city, the legislature authorized the construction of the viaduct in question. It is devoted to ordinary traffic by teams, vehicles, and pedestrians. It is prohibited for railroad purposes. It is one of the uses to which public highways are primarily opened and devoted. It was constructed under legislative authority, in the exercise of governmental powers, for a public purpose. It is not, therefore, a nuisance, and the plaintiff is not entitled to have its maintenance enjoined or to recover in this action the consequential damages sustained. This contention presents the only question for our determination, and the correctness of the principles of local land law applied by the state courts is not open to inquiry here, unless it has some bearing upon that question. But it may not be inappropriate to say that the decision of the court of appeals seems to be in full accord with the decisions of all other courts in which the same question has arisen. The state courts have uniformly held that the erection over a street of an elevated viaduct, intended for general public travel, and not devoted to the exclusive use of a private transportation corporation, is a legitimate street improvement, equivalent to a change of grade; and that, as in the case of a change of grade, an owner of land abutting on the street is not entitled to damages for the impairment of access to his land and the lessening of the circulation of light and air over it. Winona City, 59 Minn. Mercer County, 62 N. North Little Rock, Fed. The case of Willis v. Winona is singularly like the case at bar in its essential facts. There, as here, a viaduct was constructed, connecting by a gradual ascent the level of a public street with the level of a public bridge across the Mississippi. An owner of land abutting on the street over which the viaduct was elevated was denied compensation for his injuries, Mr. The city having, as it was authorized to do, established a new highway across the Mississippi river, it was necessary to connect it, for purposes of travel, with Main and the other streets of the city. It can make no difference in principle whether this was done by filling up the street solidly, or, as in this case, by supporting the way on stone or iron columns. Neither is it important if the city raise the grade of only a part of the street, leaving the remainder at a lower grade. That this is the rule, and that the facts of this case fall within it, is too well established by the decisions of this court to require the citation of authorities from other jurisdictions. But, as has been said, we are not concerned primarily with the correctness of the rule adopted by the court of appeals of New York and its conformity with authority. This court does not hold the relation to the controversy between these parties which the court of appeals of New York had. It was the duty of that court to ascertain, declare, and apply the law of New York, and its determination of that law is conclusive upon this court. This court is not made, by the laws passed in pursuance of the Constitution, a court of appeal from the highest courts of the states, except to a very limited extent, and for a precisely defined purpose. The limitation upon the power of this court in the review of the decisions of the courts of the states, though elementary and fundamental, is not infrequently overlooked at the Bar, and unless it is kept steail y in mind much confusion of thought and argument result. It seems worth while to refer to the provisions of the Constitution and laws which mark and define the relation of this court to the courts of the state. It was from this provision of the Constitution that Marshall in Cohen v. It is enough to refer to Murdock v. This court, whose highest function it is to confine all other authorities within the limits prescribed for them by the fundamental law, ought certainly to be zealous to restrain itself within the limits of its own jurisdiction, and not be insensibly tempted beyond them by the thought that an unjustified or harsh rule of law may have been applied by the state courts in the determination of a question committed exclusively to their care. In the case at bar, therefore, we have to consider solely whether the judgment under review has denied to the plaintiff any right secured to him by the Federal Constitution. That he was denied the due process of law secured to him by the 14th Amendment, in that his property was taken without compensation; and Second. The contentions may profitably be considered separately. Has the plaintiff been deprived of his property without due process of law? It was entirely outside that land. But it is said that appurtenant to the land there were easements of access, light, and air, and that the construction and operation of the viaduct impaired these easements to such an extent as to constitute a taking of them. The only question which need here be decided is whether the plaintiff had, as appurtenant to his land,

easements of the kind described; in other words, whether the property which the plaintiff alleged was taken existed at all. The court below has decided that the plaintiff had no such easements; in other words, that there was no property taken. It is clear that, under the law of New York, an owner of land abutting on the street has easements of access, light and air as against the erection of an elevated roadway by or for a private corporation for its own exclusive purposes, but that he has no such easements as against the public use of the streets, or any structures which may be erected upon the street to subserve and promote that pubic use. The same law which declares the easements defines, qualifies, and limits them. Surely such questions must be for the final determination of the state court. It has authority to declare that the abutting landowner has no easement of any kind over the abutting street; it may determine that he has a limited easement; or it may determine that he has an absolute and unqualified easement. The right of an owner of land abutting on public highways has been a fruitful source of litigation in the courts of all the states, and the decisions have been conflicting, and often in the same state irreconcilable in principle. The courts have modified or overruled their own decisions, and each state has in the end fixed and limited, by legislation or judicial decision, the rights of abutting owners in accordance with its own view of the law and public policy. As has already been pointed out, this court has neither the right nor the duty to reconcile these conflicting decisions nor to reduce the law of the various states to a uniform rule which it shall announce and impose. Upon the ground, then, that under the law of New York, as determined by its highest court, the plaintiff never owned the easements which he claimed, and that therefore there was no property taken, we hold that no violation of the 14th Amendment is shown. The remaining question in the case is whether the judgment under review impaired the obligation of a contract. It appears from the cases to be cited that the courts of New York have expressed the rights of owners of land abutting upon public streets to and over those streets in terms of contract rather than in terms of title. In the city of New York the city owns the fee of the public streets whether laid out under the civil law of the Dutch r egime, or as the result of conveyances between the city and the owners of land, or by condemnation proceedings under the statutory law of the state upon a trust that they shall forever be kept open as public streets, which is regarded as a covenant running with the abutting land. The plaintiff asserts that the case of Story v. If the facts upon which this claim is based are accurately stated, then the case comes within the authority of Muhlker v. It therefore becomes necessary to examine the Story Case, wherein, he asserts, such an interpretation was made. The plaintiff in the Story Case held the title to land injuriously affected by the construction f an elevated railroad, as a successor to a grantee from the city. The decision rested upon the view that the erection of an elevated structure for railroad purposes was not a legitimate street use. But the court held that there was no legal difference between the two cases, and that from the condemnation statute a covenant running with the land was implied for the benefit of its owners, and that the plaintiff was entitled to recover damages for the injury to his easements of access, light, and air. But, as in the Story Case, the extent of the decision was carefully limited. Whenever any other use is attempted to be authorized, it exceeds its constitutional authority. Statutes relating to public streets which attempt to authorize their use for additional street uses are obviously within the power of the legislature to enact. But it was held by the court that by virtue of certain legislation, not necessary here to be stated, New York city owns the fee in all of its streets upon a trust, both for the public and the abutting land, that they shall forever be kept open as public streets, nd that as to an abutting owner this trust cannot be violated without compensation. But in the opinion the limits of the principle were again carefully guarded. It was said by Judge Andrews p. The mere disturbance of their rights of light, air, and access by the imposition of a new street use must be borne, and gives no right of action. They simply hold that the trust upon which streets are held cannot be subverted by devoting them to other and inconsistent uses. The difference between a structure erected for the exclusive use of a railroad and one erected for the general use of the public was sharply defined.

Chapter 6 : George W Lawrence (Unknown) - Find A Grave Memorial

Appellants are certified firefighters, but they are cross-trained to provide varying levels of emergency medical services ("EMS") as part of their job duties at the City of Norfolk's Department of Fire and Paramedical Services ("NFPS").

William Bamman, Toledo, Ohio, for defendants-appellees. Batesole, stopped to aid a motorist who had pulled her car onto the right shoulder of the westbound lanes of US Route 20 in Sandusky County, Ohio, in order to repair a flat left rear tire. At this particular location, and for a considerable distance in either direction, US Route 20 is a four lane divided highway with two westbound lanes and two eastbound lanes. Instead of pulling his pickup truck entirely off the traveled part of the roadway as the evidence indicated was physically possible , decedent left it a few feet behind, and several feet to the left of the disabled vehicle so that the truck encroached upon the right lane of the highway by several feet. The collision drove the pickup truck into the disabled vehicle and the decedent and the other motorist were struck by one or both of these vehicles. Two and a half hours later decedent died of his injuries. Upon their motion the case was removed to the United States District Court for the Northern District of Ohio, where it was tried before a jury. The district court reserved its ruling on this motion until the appellees concluded their case, which action occurred very shortly as their case consisted solely of a single stipulation concerning the location of the nearest highway patrolpost. In due course they returned the verdict which precipitated this appeal. Louisville and Nashville R. Cincinnati Union Terminal Co. Civil at Union Savings and Trust Co. New York Central R. In the first of these appellant argues that the district court erred when it failed to instruct the jury on the law relative to the last clear chance doctrine. Marlatt, Ohio , N. In addition, the evidence clearly showed that the defendant Stratford had only a brief glimpse of the decedent immediately prior to the collision. In view of the relevant Ohio law, it would have been incorrect for the district court to charge the jury on the last clear chance doctrine in this case, Brock v. Marlatt, supra; Pennsylvania Co. Hart, Ohio St. Moneyhon, Ohio St. In instructing the jury on this subject the court read the pertinent parts of 2 Ohio Jury Instruction Such a consideration in this case reveals that not only did the court instruct the jury on negligence and ordinary care, it also specifically informed them, immediately before giving the part of the charge described above, that: Batesole, was guilty of negligence. Neither did it instruct the jurors that they must find that the decedent was negligent if they found that there was sufficient space to accommodate the pickup truck on the shoulder of the highway. Thus the challenged paragraph was neither inconsistent with a proper interpretation of the statute involved, nor incorrect. In Ohio, as is true in a majority of jurisdictions, the burden of proof of contributory negligence rests upon the defendant throughout the proceedings. Slavin Tailors,24 Ohio St. City of Cleveland, Ohio St. Ashdown, Ohio St. An unqualified instruction stating only that the defendant had the burden of proof on this issue clearly would have been erroneous under Ohio law, Mikula v. Slavin Tailors, supra; Greenawalt v. Yuhas, 83 Ohio App. Apparently recognizing this, appellant seems to advocate an instruction which would guide the jury in determining whether any inference raised by her evidence had been counter-balanced. Clearly she had not. Thus we conclude that, even if this omission were to be considered error, it would not justify a disregard of the provisions of Rule 51 or a reversal of the judgment entered upon the jury verdict by the court below. No party may assign as error the giving or the failure to give an instruction unless he objects thereto before the jury retires to consider its verdict stating distinctly the matter to which he objects and the grounds of his objection. Opportunity shall be given to make the objection out of the hearing of the jury. GC Upon any highway outside a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the highway if it is practicable to stop, park, or so leave such vehicle off the paved or main traveled part of said highway. In every event a clear and unobstructed portion of the highway opposite such standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of two hundred feet in each direction upon such highway. The law provides that upon any highway outside a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the highway if it is practicable to stop, park, or so leave such vehicle off the paved or main

traveled part of the highway. If you find that it was practicable to move the vehicle then it must be moved off the traveled portion of the highway. If you find that it was not practicable to move the vehicle off the traveled portion of the highway, then it must be moved and so parked that the opposite lane is open and the vehicle is visible to traffic approaching in both directions for a distance of two hundred feet.