showed that they were worth less. The increase of the sheep seems to have been lost sight of altogether.

It was error to assess interest on the value of the sheep from March, 1893. The judgment should have been for the value of the sheep at the time of the trial, with interest from that date. If appellee had sustained any other damages, they should have been pleaded and proved

The verdict was not responsive to the charge. It should have found the title to the property in appellee, and then have assessed their value.

The other matters of which complaint is made are not likely to occur on another trial, and it will be unnecessary to notice them. For the errors indicated, the judgment will be reversed, and the cause remanded.

HALBERT et al. v. SAN SABA SPRINGS LAND & LIVE-STOCK ASS'N.

(Supreme Court of Texas. Feb. 17, 1896.)

STATUTE—TIME OF TAKING EFFECT.

Const. 1876, art. 3, § 39, provides that no law shall take effect or go into force "until 90 days after the adjournment" of the session at which it was enacted, etc. *Held*, that the words "until 90 days after the adjournment" mean until a period of 90 days shall have elapsed after the adjournment.

Appeal from court of civil appeals of Fourth supreme judicial district.

Action of replevin by Rube Halbert and others against the San Saba Springs Land & Live-Stock Association. From a judgment for defendant, plaintiffs appealed to a court of civil appeals (34 S. W. 636), which certified a certain question to the supreme court for its determination.

S. G. Tayloe, L. N. Halbert, and Cochran & Hill, for appellants. W. W. Herron, for appellee.

BROWN, J. The court of civil appeals has certified to this court the following statement and question: "On June 29th, 1885, the San Saba Springs Land & Live-Stock Association was chartered by the state of Texas, the purpose of the corporation being specified as 'the raising, breeding, owning, buying, selling, and trading in live stock of all kinds, or in such as the corporation may see fit; and also the owning, buying, selling, and trading in real estate in the state of Texas, and in any other state or territory of the United States or the republic of Mexico.' The charter was granted by virtue of subdivision 27, art. 566, Rev. St. Question. Was article 566, Rev. St., in force on June 29, 1885, or had the act of March 27, 1885, gone into effect, thereby repealing said article?"

The object of the constitutional convention in prescribing a period of time within which no law enacted by the legislature should be operative was to give notice to the people of its passage, that they might obey it when it should become effective, and also to enable them to adjust their affairs to the change made, if any. Price v. Hopkin, 13 Mich. 325. The law which requires citation to be served five days before the return day thereof is analogous to the constitutional provision, in that each is intended to fix a time for giving notice of an event which is to occur, or a thing that is to be done, the first to an individual, the latter to all persons; and we might well apply the rule that the entire period of time mentioned is to expire between the two dates named, as, for instance, that the day of service and the day of return in service of citation must both be excluded in the computation of the time. Applying that rule in this case, the day of adjournment of the legislature and the day that the law shall take effect would be likewise excluded in the computation of time prescribed by the constitution; that is, 90 full days must expire between the adjournment of the legislature and the taking effect of the law. O'Connor v. Towns, 1 Tex. 107.

Article 3, § 39, of the constitution of 1876, reads as follows: "No law passed by the legislature, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency, which emergency must be expressed in a preamble or in the body of the act," etc. At the time this constitutional provision was adopted, the act of December 1, 1849 (Pasch. Dig. art. 4576), was in force, which is in this language: "Every law hereafter made, shall commence and be in force with the commencement of the sixtieth day after the adjournment of the session of the legislature at which such law may be passed, unless in the law itself another time for the commencement thereof is particularly mentioned." The construction of the constitution urged by appellants' counsel would require that we change the language so as to read "until the ninetieth day," which would accord with the law as it then existed. But the convention did not use that language. From the change of the language, it must be presumed that there was an intention to change the rule fixed by the law upon the subject. Hotel Co. v. Griffiths (Tex. Sup.) 33 S. W. 661. The changes plainly made are that the period of time is enlarged from 60 to 90 days; the legislature is prohibited from putting any law into effect in less time than that named, save in the excepted classes mentioned; and, instead of saying that the law shall take effect at the commencement of the ninetieth day, it is said "until ninety days," etc. If the convention had intended that a law to be thereafter passed should take effect on the ninetieth day after adjournment of the legislature, it would have

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been easy and natural to have used the language of the law then in force. It cannot be claimed that it was intended that the law should go into effect at an earlier date than the ninetieth day, and the only change that could result from the language used is that it should take effect at a later date than that which would be expressed by language similar to that of the then-existing law.

The language "until ninety days" is incomplete and meaningless if we construe it alone by the words used, and therefore it becomes necessary, in order to arrive at the intention of the framers of the constitution, to supply those words which have evidently been omitted. Mr. Sutherland says: "When one word has been erroneously used for another, or a word omitted, and the context affords a means of correction, the proper word will be deemed substituted or supplied." Suth. Stat. Const. § 260. Ninety days is the period of time intended to be prescribed by the constitution which must elapse after the legislature adjourns before a law enacted by that body can become operative, but this is not expressed by the words used, neither can it be said that 89 days or any less number must elapse if we regard only the words used. In fact, nothing definite and certain can be determined from these words; but, by supplying the words evidently omitted, we can read the provision as if it had been written thus, "until the expiration of ninety days after the adjournment of the legislature": or, "until a period of ninety days shall have elapsed after the adjournment of the legislature." The words supplied are consistent with the context and in harmony with the purposes of the convention in framing the section quoted. It is also in harmony with the previous decisions of this court in construing statutes upon the subject of notice, and we conclude that this provision of the constitution should be construed as if the language had been used that is above supplied. Section 43 of article 12 of the constitution of 1869 provided: "The statutes of limitation of civil suits were suspended by the so-called 'Act of Secession,' 28th of January, 1861, and shall be considered as suspended within this state until the acceptance of this constitution by the United States congress." The constitution was accepted on the 30th day of March, 1870. In the case of Dowell v. Vinton, this provision of the constitution of 1869 was construed by the court of appeals, the question being whether or not limitation commenced to run on the day the constitution was accepted by congress, or on the succeeding day. It was held by the court of appeals that the law of limitation was not revived until the 31st day of March, 1870, the day next succeeding the day on which the constitution was accepted. We think that this case is in point, and correctly decided. It is in harmony with the decisions before cited herein, and with the general rules laid down for construction under like circumstances. See 1 White & W. Civ. Cas. Ct. App. § 327. We therefore answer that article 566 of the Revised Statutes was in force on June 29, 1885, and that the act of March 27, 1885, did not go into effect until the 30th day of June of that year.

HOUSE et al. v. ROBERTSON.[1]

(Court of Civil Appeals of Texas. Feb. 12, 1896.)

EXECUTION—PREMATURE ISSUANCE—RETURN—IRREGULARITY — EVIDENCE—ORIGINAL DEED—ALTERATION—TRESPASS TO TRY TITLE—PLEADING—PROOF—INADEQUACY OF PRICE.

1. The premature issuance of an execution is a mere irregularity, which cannot be attacked in trespass to try title to lands sold thereunder.

2. Where a sheriff's deed contains a correct description of the property, the title of an innocent purchaser at an execution sale is not invalidated by an irregularity in the return to the levy.

3. Where an original deed has been on file for three days before the trial, and there is no affidavit attacking it, and evidence explaining an alteration is admitted without objection, the deed is admissible, under Sayles' Civ. St. art. 2257, providing that an instrument filed in the county clerk's office shall be admitted in evidence without proof of its execution, provided it has been on file three days with notice to the adverse party, and he has filed no affidavit attacking its genuineness.

4. In trespass to try title where plaintiff sets out his title to the lands, and pleads facts avoiding a deed to defendant, and defendant pleads not guilty, plaintiff must establish the issues raised by his pleading.

5. Inadequacy of price will not avoid an execution sale which was free from any irregularity which would tend to deter prudent men from bidding.

Appeal from district court, Bosque county; J. M. Hall, Judge.

Action of trespass to try title by T. W. House and others against J. M. Robertson, and to cancel and set aside deeds. From a judgment in favor of defendant, plaintiffs appeal. Affirmed.

Z. T. Fulmore and S. R. Caruth, for appellants. James A. Gillette and James M. Robertson, for appellee.

FLY, J. Appellants brought an action of trespass to try title and to cancel and set aside certain deeds to 1,476 acres of land patented to J. D. Andrews, assignee of Estevan Villareal, against J. M. Robertson, Mrs. H. M. Jenkins, James Love, A. N. Garey, H. B. White, and E. C. Heath. J. W. Robertson asked for and obtained a severance, and disclaimed as to all the land except 476 acres, described by metes and bounds. The cause was tried with a jury, and resulted in a verdict and judgment for Robertson. It was admitted that appellants had a perfect title to the land in controversy up to the time of the execution sale on October 7, 1884, and that whatsoever title appellee had was by

[1] Rehearing denied.

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