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Synopsis of Some of the Leading Cases Recently Decided by the Kentucky Court of Appeals

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dom and in his daily life practiced that law received from the God of law.

His heart vibrated with love and affection when its cords with human need or human suffering responded to its every call in loving sympathy and tender ministrations.

An uncrowned king—an unsung hero—he lives in our hearts and dwells in our lives, beautifying and making them more sacred. And we realize

“He is not dead, he is just away,
With a cherry smile and a waive of the hand,
He has wandered into an unknown land,
He is not dead, he's just away.”

We loved him because he was lovable—we grieve over his loss because it is irreparable, and we lay this flower upon his grave because

“You may break, you may shatter the vase if you will,
But the scent of the rose will hang 'round it still.”

WARD C. YEAGER.

Synopsis of Some of the Leading Cases Recently Decided by the Kentucky Court of Appeals.

CRADDOCK, VINSON & COMPANY VS. CONNECTICUT FIRE INSURANCE COMPANY.

This case was appealed from Hickman Circuit Court, and decided October 27th, 1914.

In August, 1912, the appellants purchased a traction engine, water tank, separator and two wind-stackers for $250, for which sum they executed their note, the engine being valued by the seller at $200 and the balance of the property at $50. In September, 1912, they had this property insured in the appellee company for $955, distributed as follows: $530 on the engine, $60 on water tank, $200 on separator, and $165 on stackers. In December, 1912, the separator and wind-stackers were destroyed by fire, and to recover the insurance on the destroyed property, this suit was brought.

For defense the appellee relied on certain clauses in the policy, one of them stipulating that “This indemnity contract is based upon the representations and contained in the application of even numbers, herewith and which the assured has signed and permitted to be submitted to the company, and the amount insured on articles described in the policy are based on the size and age of each article, as stated by the insured in his application, and which is made a warranty and a part hereof. The assured waives the right to plead that he did not know what the application contained; and it is stipulated and agreed that if any false statements are made in said application, then the entire policy shall be null and void.” In the application it was
stipulated that “if the statements in this application are not true, the policy issued hereon will be void.” It was further averred that the company would not have taken a risk of any amount on the property destroyed if it had been used more than seven years.

The application shows that the appellants, in answer to certain questions contained in the application, stated that the property had been bought from different parties; that the purchase price was $1,200, which was paid in cash; that the engine had been used seven years, and the separator and stackers had been in use two years. It was averred that each of these statements was false, and that the entire property had been in use about twelve years, and that the purchase price was only $250, and that same was not paid in cash. That the property was not bought from different parties, but from one party.

In the reply it was sought to avoid the false statements in the application upon the ground as stated that “It is true that they signed the application set out in the defendant’s answer; but they deny that at the time they signed said application the statement was in said application that the purchase price of this outfit insured was $1,200, and that this was paid in cash. They say that at the time they signed said application the same was filled out by the agent of the defendant’s writing said policy, and the application therefor. And they deny that they stated to him that the purchase price of said property was $1,200 cash; but they say they told him that said property was worth $1,200; that the statement in the application that the purchase price was $1,200 was made without their knowledge and after they had signed the application. **And they say the statements in the application were written by the agent of the company after same had been signed by them, and they say that they never saw said application and did not know that the statements complained of in the answer were in the application until after the fire.” They further denied that the property had been in use more than two seasons.

The case went to trial before a jury, and after all the evidence had been introduced, the trial judge instructed the jury to return a verdict for the appellee company, and it is of this ruling that the appellants complain. On the weight of the testimony on the connected parts the court lays down the following law applicable in this case:

1. False and material misstatements, if made by the insured in an application for fire insurance, will avoid the policy; but if false and material misstatements are inserted by the agent of the company without the consent or approval of the applicant, the company can not rely on their falsity to defeat the insurance.

2. Where the insured, in an application for insurance on machinery, stated that it cost $1,200 and had only been in use two years, when in fact it had cost only $250 and had been in use more than seven years, these false statements were material to the risk and sufficient to defeat a recovery on the policy after the destruction of the property by fire.