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VANSANT KITCHEN & CO. *v.* COMMONWEALTH.

March 12, 1908.

[60 S. E. 753.]

1. **Taxation—Assessment—Statutes—Repeal by Implication.**—Code 1904, § 437a, provides for the assessment of “all mineral lands, and the improvements, fixtures and machinery thereon,” but makes no provision for the assessment of standing timber separate from the ownership of the soil. Act Feb. 21, 1906 (Acts 1906, p. 38, c. 50), amended the section by adding a provision for the assessment of “all standing merchantable timber trees sold to parties not owning the soil,” etc. By Act March 17, 1906 (Acts 1906, p. 555, c. 319), section 437a was again amended and the section re-enacted, so as to stand as before the first amendment. Held, that the second amendment repealed the first amendment by implication, since, where a later statute is plainly intended to embrace the whole subject and to be wholly substituted for all former statutes, whatever is embraced in it shall prevail and whatever is excluded is repealed; and hence after the passage of the act of March 17, 1906, all authority ceased to tax trees separate and apart from the land upon which they stand.

2. **Commerce—Interstate Commerce—Felled Trees Prepared for Exportation—Taxation.**—Timber belonging to a citizen of another state, felled in Virginia and placed near water courses to wait for high water to float it to the state of the owner, is not exempt from taxation in Virginia as being in process of exportation as interstate commerce, since it does not become such until the course of transportation has begun.

WINGFIELD *v.* MCGHEE et al.

March 12, 1908.

[60 S. E. 755.]

1. **Judgment—Rendition—Time—Vacation.**—Consent of parties conferring jurisdiction upon the judge to render judgment or decree in vacation must be given and authenticated as required by Code 1904, § 3427.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 30, Judgment, § 14½.]

2. **Same.**—A record showing that, “on motion of the plaintiff, it is ordered that the cause be submitted to the judge for decision and decree in vacation,” does not show consent of the parties as required by Code 1904, § 3427, so as to confer jurisdiction upon the judge to render decree in vacation.

[Ed. Note.—For cases in point, see Cent. Dig., vol. 30, Judgment, § 14½.]

3. **Same.**—The pleadings must be made up and the proof filed be-