Re Breton's Estate, 17 Ch. D. 416, commented upon.

The wife died in 1872, having made a will leaving her real estate to the two daughters of herself and husband, who were then aged respectively seventeen and twelve. The husband remained in possession during the wife's life, and from her death till his own death in 1890. This action was begun in 1890 by the younger daughter and the son of the elder, to recover possession from the devisee of the husband.

Held, reversing the decision of BOYD, C., that the Real Property Limitation Act did not apply so as to extinguish the rights of the plaintiffs to recover; it was to be presumed that the husband, after conveying to his wife, was in possession of the lands and in receipt of the rents and profits for and on behalf of his wife; and that, upon his wife's death, he entered into possession and receipt for and on behalf of his infant children and as their natural guardian; and, his being so, his possession and receipt were the possession and receipt of his wife, and, after her death, of his children and those claiming under them; and the statute, therefore, never began to run.

Wall v. *Stanwick*, 34 Ch. D. 763; *In re Hobbs*, 36 Ch. D. 553; *Lyell* v. *Kennedy*, 14 App. Cas. 437, followed.

Hickey v. *Stover*, 11 O.R. 106; *Clark* v. *McDonnell*, an unreported decision of the Common Pleas Divisional Court, not followed.

Gibbons, Q.C., for the plaintiffs.

W. R. Meredith, Q.C., for the defendant.

Div'l Court.] [Feb. 2.

TAYLOR v. MASSEY.

Defamation—Libel—Resolution passed at meeting—Letter published in newspapers—Accusation of conspiracy—Innuendo—Plaintiff not named—Surrounding circumstances—Excessive damages—Evidence of occurrences at meeting—Admissibility—Privilege.

The plaintiff, who was employed by a manufacturing company of which the defendant was president, brought an action for the seduction of his daughter against the superintendent of the company. Some particulars in regard to the alleged seduction having appeared in public newspapers, a meeting of some of the members and servants of the company was held, at which the defendant presided, and a resolution was passed expressing confidence in the innocence of the superintendent of the alleged seduction. A letter was then or immediately afterwards drawn up and signed by a number of the persons present, including the defendant, handed to a reporter for publication, and was published in several newspapers, without any objection on the defendant's part.

The letter was addressed to the superintendent, referred to the charges against him which had appeared in the newspapers, declared the belief of the signers in his innocence, and concluded, "We believe you are the victim of a conspiracy as base and ungrateful as was ever sprung on an innocent man, and we pledge ourselves to stand by you until your innocence shall have been clearly established, or until—which we are confident will never be—you are shown to be the monster depicted in the public press." The plaintiff was not named in the letter.

The plaintiff sued the defendant for libel in consequence of the publication of this letter. The innuendo was that the plaintiff was guilty of the offence of conspiring and agreeing with his daughter to defame and slander or otherwise injure the reputation and character of the superintendent. The whole question of libel or no libel was left to the jury, who found for the plaintiff with $1,500 damages.

Held, that it was not necessary to decide whether the letter could be construed as supporting the innuendo of a criminal conspiracy; the question really was whether the defendant had libelled the plaintiff, and this question had been determined by the jury.

2. That the surrounding circumstances were admissible in evidence for the purpose of showing that persons conversant with those circumstances might naturally conclude that the plaintiff was the person aimed at by the letter; and it was enough that the circumstances and the libel taken together pointed to some one, and that the jury found the plaintiff to have been the person intended.

3. That the verdict of the jury could not be interfered with on the ground that the damages were excessive.

4. That evidence of what took place at the meeting was admissible as proof that the plaintiff was the person intended by the resolution passed at it, the defendant having been present, and that a witness who was present at the meet-