

SELECTIONS.

CONTRIBUTORY NEGLIGENCE IN A COUNTY COURT.

A lady, whose silk dress had suffered injury by the fall thereon of some porter from the bar engine of a public house, while the pump was being worked by the bar-maid, brought an action against the landlord to recover compensation. The case, entitled *Albert v. Sands*, was heard before the judge of the Lambeth County Court, and his Honour held that the negligence was proved; but adjourned the question of damages, because a dyer had alleged his ability to restore the silk dress to its original beauty at a trifling cost. At the adjourned hearing the dyer confessed that the porter was too much for him, and thereupon the judge proceeded to assess the damages. The claim was for £5 18s., the cost of the dress; but his Honour thought there ought to be an abatement from this amount, as the lady had some wear out of the dress. So far that Mr. J. Pitt Taylor was in the right. But his Honour then said that as a public house was a dangerous place for a handsome dress, the lady was guilty of some negligence in entering a tavern in such a costume, and for that reason some deduction must be made from the claim. Perhaps we do not quite understand the intent of the learned judge, or his words may have been wrongly reported. Otherwise, here is our old friend the doctrine of "contributory negligence" appearing in a new and most awkward form. For, according to Mr. J. Pitt Taylor, the question of the negligence of the plaintiff is not only material so far as concerns the verdict or judgment in a cause, but must also be considered in regard to the *quantum* of damages to be awarded. The tendency of this novel theory can hardly be conjectured. Clearly, Mr. J. Pitt Taylor thinks that no person in good clothes ought to approach the bar of a public house; a startling opinion for city men, barristers, attorneys, and divers other liege subjects, who must be refreshed in the hurried intervals of buisness, and who now and then may indulge in the elegance of a new pair of pantaloons. But that is not the limit of the doctrine. When next some murderous railway company smashes a statesman, or stockbroker, or a queen's counsel, an appeal will be made to the judge not to award the full measure of damages, on the ground that the plaintiff was himself guilty of some negligence in entering the carriage of the company, that being "a very likely place for a valuable person to get damaged in."—*Law Journal*.

SIMPLE CONTRACTS & AFFAIRS OF EVERY DAY LIFE.

NOTES OF NEW DECISIONS AND LEADING CASES.

ARBITRATION—IRREGULAR CONDUCT OF ARBITRATORS.

Where at the commencement of a reference, *L.*, the arbitrator for one side, conferred privately with the parties who nominated him on the matters in question, and on the evidence to be offered, and continued this course to the end, it was *held* that the impropriety was not cured by showing that after the reference had made some progress, the other arbitrator acted with similar irregularity on the other side.

The reference was to two arbitrators, with power for the arbitrators to appoint an umpire, who was to make an award if the two arbitrators disagreed; an umpire was accordingly appointed; and, the arbitrators differing, the umpire made an award:

Held, that each party was entitled to the free judgment of the two arbitrators on the matters in difference, as a condition precedent to the umpire's authority coming into force; as well as their free judgment in the appointment of the umpire; and that the irregularity of the arbitrator *L.*'s course in holding private conference with one of the parties was sufficient to avoid the award of the umpire.

After the two arbitrators had finally differed, the umpire had a private conversation on the subject of the reference with the arbitrator *L.*, in the absence of the other arbitrator and of the parties: *Held*, that, as *L.* had acted as the agent for one side, private conversation with him was as injurious and objectionable as private conversation with the principals would have been.

The Court allowed the party prejudiced to serve a supplementary notice, embodying the objections as to the course of the umpire and arbitrator *L.*, the same having come to light on cross-examination, and there being strong reason for apprehending that the award was not a fair award.—*In re Lawson and Hutchinson*, 19 C. R. 84.

DOWER—MORTGAGE.

Where a wife joins in a mortgage, and, on the death of the husband, there are not sufficient assets for the payment of all his debts, the widow is not entitled to have the mortgage debt paid in full out of the assets, to the prejudice of creditors.—*Baker v. Dawbarn*, 19 C. R. 113.

INFANTS—PAST MAINTENANCE.

It is for the discretion of the Court, in view