

PRACTICE—PARTICULARS—DISCOVERY.

In *Millar v. Harper*, 38 Chy. D. 110, a point of practice of some moment was determined by the Court of Appeal (Cotton, Lindley and Bowen, L.JJ.), affirming North, J., in which the rule is laid down, that where a defendant has means of knowing the facts in dispute, and the plaintiff has not, particulars of demand will not be ordered to be delivered by the plaintiff until after the defendant has given discovery. In this case, the plaintiff, as executor of a deceased married woman, sued her husband claiming that certain chattels in the defendant's possession were the separate property of his deceased wife. The husband applied for particulars showing the chattels claimed; but it was ordered that the application should stand over until the defendant had made an affidavit which of the articles belonged to the wife.

BILL OF SALE—MORTGAGE OF MILL PROPERTY—TRADE FIXTURES.

In *re Yates, Batcheldor v. Yates*, 38 Chy. D. 112, the Court of Appeal (Cotton, Lindley and Bowen, L.JJ.) held, affirming the decision of the Vice-Chancellor of the County Palatine, that where a mortgage was made of a mill property on which there was fixed machinery, being trade fixtures, which passed to the mortgagee as being affixed to the freehold, and the mortgage contained a power of sale; that the mortgage was not an assignment of the trade machinery so as to require registration under the *Bills of Sale Act*, but was a valid mortgage both as to the land and machinery, and that the power of sale did not authorize the mortgagee to sell the machinery apart from the land.

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Licensed Victuallers' Newspaper Co. v. Bingham, 38 Chy. D. 139, was an action brought to restrain the defendants from publishing a newspaper with the same name as the plaintiff's paper. The plaintiffs, on the 3rd February, 1888, commenced the publication of their paper, and registered it at *Stationers' Hall* the next day. No advertisement had been issued that a newspaper under that name was about to be published. On the 6th February the defendants published the first number of a newspaper with the same name. Very few copies of the plaintiff's paper had then been sold. The Court of Appeal (Cotton, Bowen and Lindley, L.JJ.) affirmed North, J., in holding that the registration of the plaintiff's newspaper at *Stationers' Hall* gave the plaintiffs no exclusive right to the name, and that a title to it by use and reputation could not be acquired by a publication for three days with a very small sale.

PRACTICE—THIRD PARTY PROCEDURE—RULES S. C. ORD 16, R. 53 (ONT. C. R. 232).

Barton v. London & N. W. Ry. Co., 38 Chy. D. 144, was an action brought against the defendant company to compel them to re-transfer stock alleged to have been transferred out of the plaintiff's name by means of forged transfer deeds. The transferees were not made parties, but the company served them with third party notices, claiming indemnity. The company, in their defence,