EX. COOPER *et al v.* WOOLFIT. *May* 4.

Emblements—Right of Executor to—Title of devisee to emblements.

The devisee of land is entitled to the emblements unless they are expressly bequeathed by the will to another. A mere bequest of all the testators residuary personal estate to his executors, does not entitle them to the emblements as against a devisee of land.

EX. HORNTON *v.* BOTT. *May* 28.

Discovery—Ejectment—Title of Defendant Stat. 17 *and* 18 *Vic. Ch.* 125, *Sec.* 51.

A plaintiff in ejectment is not entitled to a discovery of the defendants title.

EX. KRULL *v.* HOOPER. *June* 12.

Insurance Voyage Policy—Insurance of Salvage Implied Warranty of seaworthiness.

The interest of salvors in a ship and cargo, was insured on a voyage from T. a foreign port to England, by a policy containing these words. "The vessel having been abandoned by her original crew and taken into T. by the sailors on whose interest the said insurance is effected."

Held, that the policy was subject to an implied condition of seaworthiness.

Q. B. WHEELTON *v.* HARDESTY. *May* 4, 5, 7. *July* 4.

Life Insurance—The life and his referees not the agents of the assured —Effect of Company's prospectus—Evidence.

Where a person insuring the life of a third party is, on negotiating the insurance, required merely to state his belief in the information furnished by the life and his referees, and the truth of such information is not made the basis of the contract, the person insuring is not affected by fraud of these parties in furnishing information, it not appearing either that he was aware of this fraud, or that they were employed by him as agents in affecting the insurance. In the prospectus usually issued by an insurance Company to its customers, it was stated that any insurance should be unquestionable, unless fraud was practised in obtaining it.—*Held*, (per WIGHTMAN, ERLE, and CROMPTON, J.J., *dissentiente*, LORD CAMPBELL, C. J.,) that this included fraud of the life and his referees, and was not confined to fraud of the assured *quære*, how far a policy ought to be controlled by such a prospectus.

The mere fact, that a prospectus has been usually circulated by a company, affords no evidence from which a jury is entitled to infer that, it has come to the knowledge of, and has been acted upon by a party insuring, and positive evidence must be given that it has actually come to his knowledge—(*dissentiente* LORD CAMPBELL, C. J.)

Q. B. FRASER *v.* GORDAN. *June* 23, *July* 4.

Bills of Exchange—Endorsee against drawer—Agreement with third party to give time to acceptor—Principal and Surety.

It is no answer to an action against a surety that in pursuance of a binding agreement with a third party time has been given to the principal debtor, and therefore the drawer of a bill of exchange is not discharged by an indorsee agreeing for good consideration with a stranger to give time to the acceptor, and giving time accordingly.

Q. B. FREHERNE *v.* GARDNER. *June* 9, *July* 4.

Costs—Allowance of the defendent where there is a distributive issue and he has succeeded in reducing plaintiff's claim—Taxation.

In an action to receive a number of items alleged to have been over-paid to the lord and steward of a manor in respect of admittances to copy-hold, the declaration consisted of the common counts, to which there was one plea of "never indebted;" and the plaintiff at the trial had a verdict by consent, subject to the opinion of the Court on a special case which raised several questions of principle. These were decided by the Court partly for the plaintiff and partly for the defendant; and the amount to which the plaintiff was entitled having been to the master, the plaintiff ultimately recovered something in respect of each item, but an amount in the aggregate smaller than he had originally claimed. Held, that the taxation of the master was right in distributing the costs, and allowing costs to the defendent, where he had in part successfully resisted any claim of the Plaintiff.

CORRESPONDENCE.

Mr. J. Eastwood, Division Court Clerk, Saugeen, writes as follows:—

Saugeen, August 6th, 1857.

After a careful perusal of the *Law Journal* since its commencement, I am unable to find a solution of a difficulty under which I am labouring.

At the instance of P. the plaintiff, an attachment was issued by a J. P. and directed to a constable, who seized a horse and clock belonging to D. the defendant, and delivered them to the Clerk of the Division Court. P. then furnished a Supersedeas Bond upon which the property was restored to him. The cause came on for trial and by consent of the parties, was referred to arbitration. The arbitrators gave an award for the whole amount claimed, which award was duly entered in the Procedure Book. *Before* execution issued, D. absconded taking the horse with him, but leaving the clock and *other* property, all of which except the clock was seized by virtue of two attachments, issued by a J. P. While in possession of the constable, and *before* delivery to the Clerk, an execution was issued against the goods and chattels of D. and a levy made on the clock, leaving the other property untouched. The question now arises, can the *other* property be seized and sold by virtue of the *execution*. I apprehend *not*, as P. is protected from loss by the Supersedeas Bond. Am I right? The *other* property has since been delivered to the Clerk. An answer to my query in the *Law Journal*, will much oblige.

[We think you are right. The condition of the Bond on Supersedeas is that in the event of judgment being recovered, the amount thereof, or the value of the goods shall be paid or the property itself restored to *satisfy the judgment*. None of the conditions appear to have been complied with and such remedy as P. has, appears to be on the Bond. The question, however, might be raised for the disposal of the Judge on Interpleader. Perhaps we should add that the original suit being referred to arbitration, if not with consent of the bail may affect *their* liability on the Bond.]—EDS. *L. J.*

APPOINTMENTS TO OFFICE, &c.

ASSOCIATE CORONERS.

ROBERT HENDERSON, Esquire, to be an Associate Coroner for the United Counties of Peterborough and Victoria.—(Gazetted, 29th August, 1857.)

JAMES STIMSON, of Plattsville, County of Oxford, Esquire, M. D., to be an Associate Coroner for the County of Oxford.—(Gazetted 5th September, 1857.)

NOTARIES PUBLIC.

JOHN SIMONS, of Toronto, Esquire, Attorney at Law. JAMES McFADDEN, of St Mary's, Esquire, Attorney at Law. SHUBAEL PARK, of Hamilton, Esquire, Barrister at Law. CHARLES RICHARD ATKINSON, of Chatham, Esquire, Attorney at Law. RICHARD LEONARD MARSH, of Bridgetown, County of Kent, Gentleman; and ERNESTUS CROMBIE, of Toronto, Gentleman, to be Notaries Public for Upper Canada.—(Gazetted 5th September, 1857.)

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