

RECENT ENGLISH DECISIONS.

or contribute, and though there be in that sense no privity between the plaintiff and defendant, but, as pointed out in the judgment, the rule is subject to certain exceptions, *e.g.*, it may be excluded by contract—as where the person whose goods are seized is himself liable to pay the debt for which they are seized. The case of *England v. Marsden* (1 L. R. C. P. 529,) had also decided that when the owner of the goods leaves them for his own convenience where they could be lawfully seized for the debt of another—the latter in such a case was not liable to indemnify, but the soundness of this case was questioned, and the Court thought that it ought not to be followed.

ARBITRATION—COSTS TO ABIDE EVENT—PLAINTIFF SUCCEEDING ON CLAIM, AND DEFENDANT ON COUNTER CLAIM.

The case of *Lund v. Campbell* (14 Q. B. D. 821), is another decision of the Court of Appeal, affirming the judgment of the Queen's Bench Divisional Court. The question was as to what was the proper form of judgment where there is a claim and counter claim and the action is referred to arbitration, and it is ordered "that the costs of the cause and the costs of the reference and award shall abide the event" and upon the arbitration the plaintiff succeeds on his claim, and the defendant on his counter claim, and after setting off the former against the latter the balance is in favour of the defendant.

Under such circumstances the Court held that the word "event" must be construed distributively and that the judgment should be entered for the defendants with the costs of the cause, reference and award, but that the plaintiff was also entitled to the costs of all those issues on which he had succeeded.

HUSBAND AND WIFE—ACTION BY HUSBAND AGAINST WIFE—MONEY PAID BY HUSBAND FOR WIFE BEFORE AND AFTER MARRIAGE—MARRIED WOMEN'S PROPERTY ACT 1882.

The only case in the Queen's Bench Division remaining for consideration is

that of *Butler v. Butler* (14 Q. B. D. 831) a decision of Wills, J. The action was brought by a husband against his wife to recover moneys lent by him to his wife before and after their marriage, which took place in 1883; and it was held that the action would not lie for moneys lent before marriage, but that the plaintiff was entitled to recover against his wife's separate estate the moneys lent after the marriage.

None of the cases in this number of the Probate Division appear to call for any reference here.

EXPROPRIATION OF LAND FOR PUBLIC PURPOSES—TAKING MORE LAND THAN IS NECESSARY.

The first case in the Chancery Division for May to which we think it necessary to call attention is that of *Gard v. Commissioners of Sewers of the City of London* (28 Ch. D. 486), which, though a decision on the construction of certain Imperial Statutes, may nevertheless be useful as a guide in the construction of similar acts in force in this Province. Under certain statutes the defendants were authorized to expropriate land for the purpose of widening streets. Two houses adjoining a street which the defendants sought to widen belonged to the plaintiff, they were burned down and the outer walls only left standing. The defendants actually only required a strip of 5½ feet of the land for the purpose of widening the street, but they claimed the right to take the whole of the land on which the houses stood, intending to sell the surplus not required, without giving the plaintiff any option of pre-emption. This the Court held the defendants could not do, but on the contrary they were restricted from expropriating any more land than was reasonably necessary for carrying out the proposed improvement, and an injunction to restrain the expropriation was granted.

PETITION DISMISSED—DISCOVERY OF FRESH EVIDENCE—RES JUDICATA.

The case of *Re May* (28 Ch. D. 516) a decision of the Court of Appeal affirming