

G. Murray presented a petition in the matter of the above named infants, and in the matter of 12 Vic. cap. 72, and 29 Vic. cap. 28, setting forth that the infants were seized of certain lands, which had been leased by their ancestor for twenty-one years, with a covenant for renewal for a further term of twenty-one years; that the lessor, their ancestor, had died intestate; that the term granted by the first lease had now expired, and praying the sanction of the court to a renewal lease in accordance with the covenant therefor, and the appointment of a guardian to the infant heirs, to execute the same on their behalf.

THE JUDGES' SECRETARY.—This is not a case for applying under the 12 Vic. cap. 72. This court can act under that statute, and sanction sales or leases of an infant's estates only when it "is of opinion that a sale, lease, or other disposition of the same, or of any part thereof, is necessary or proper for the maintenance or education of the infant, or that by reason of any part of the property being exposed to waste and dilapidation, or to depreciation from any other cause, his interest requires or will be substantially promoted by such dispositions," and none of those circumstances are alleged to exist in the present instance. Nor has the act 29 Vic. cap. 28, any bearing on the subject.

Under the Imp. act 11 Geo. IV. and 1 Wm. IV. cap. 65, sec. 16, the Court of Chancery has power, "where any person, being under the age of twenty-one years, might, in pursuance of any covenant, if not under disability, be compelled to renew any lease made or to be made for the life or lives of one or more person or persons, or for any number or term of years absolutely, or determinable on the death of one or more person or persons," to authorise such infant, or his guardian, by an order, "to be made in a summary way, upon the petition of such infant, or his guardian, or of any person entitled to such renewal, from time to time to accept a surrender of such lease, and to make and execute a new lease of the premises comprised in such lease." (McPherson on Infants, pages 313 and 314) and this act is in force here. On the petition being amended, and styled in the matter of the infants and of this statute, an order may be made; but the proposed lease must be submitted, that the court may judge whether its terms are proper.

ENGLISH REPORTS.

GLADMAN V. JOHNSON.

Dangerous animal—Scienter—Evidence—Knowledge of husband inferred from notice to wife.

The plaintiff was bitten by a dog belonging to the defendant; the dog had, four years before, bitten a boy, and, on another occasion, torn a person's dress. These facts were communicated by the aunt of the boy bitten to the defendant's wife, on the defendant's premises, but there was no evidence that the wife had communicated them to her husband.

Held, that there was some evidence from which a jury might infer that the defendant knew of the savage nature of the dog.

[C. P., Jan. 11, 1867.]

Declaration.—For wrongfully keeping a savage dog, which bit the plaintiff, knowing the same to be of a fierce and savage nature.

Pleas.—1. Not guilty.

2. That the dog was properly secured in a place where the plaintiff had no right to go; that the plaintiff was trespassing and came within reach of the dog; and that the injury complained of was occasioned by the negligence of the plaintiff.

Joinder of issue.

The cause was tried before Smith, J., when it appeared that the defendant occupied premises which consisted of a house fronting the road, at the back of which was a yard, where there were some sheds and outbuildings. He carried on the business of a dairyman in the house, which was ordinarily entered by his customers through a door fronting the road. The defendant carried on the business of a corn-dealer in the yard at the back of the house, and the entrance to the yard was from a lane at right angles to the main road.

The plaintiff had been in the habit of purchasing milk at the defendant's shop, and went to the shop one Sunday morning. He attempted to enter the shop by the front door, but finding it locked, he went through the yard to the back door. As he was leaving the house and crossing the yard, a dog belonging to the defendant flew at him and bit him, and did the injuries complained of.

The defendant's wife assisted the defendant in the management of the milk business.

It was proved that, four years before this accident happened the same dog had bitten a boy named Gibson, and on that occasion Gibson's aunt went to the defendant's premises and gave an account of the accident to the defendant's wife. The defendant's wife denied that any such communication had ever been made to her.

It was objected by the counsel for the defendant that the communication could not be taken to have been made to the defendant, and that there was no evidence to prove the scienter. It was also proved that on another occasion the dog had torn a person's dress.

The learned judge thereupon nonsuited the plaintiff, with leave to him to move for a rule to enter the verdict for £15 (the damages agreed upon) if the Court should be of opinion that there was any evidence from which the jury could infer that the defendant was aware of the savage nature of the dog.

On a former day.

Prentice, Q. C., had obtained a rule accordingly.

T. Jones, Q. C., now showed cause, and contended that notice to the wife of what had taken place was not notice to the husband; that the Court could not infer that she had communicated what she had been told to her husband. If a person had stated to the defendant's wife that he served a writ on the defendant, that would not be evidence that the defendant knew that the writ had been served. Nor could the defendant's wife have been asked whether she communicated this statement to the defendant: 16 & 17 Vict. c. 83, s. 3; *O'Connor v. Majoribanks*, 4 M. & G. 435. It must also be shown that the defendant knew that the dog was accustomed to bite mankind: *Thomas v. Morgan*, 2 Cr. M. & R. 496. Here the evidence only refers to two cases. [WILLES, J.—The plaintiff need only show that the dog indicated an intention to bite.]

Prentice, Q. C. in support of the rule.—There was some evidence that the defendant was aware