Council, was actionable on proof of express malice in the defendant, and was not privileged.

ALIMONY—INJUNCTION.

The only case in the Probate Division which seems to call for attention is *Newton* v. *Newton*, 11 P. D. 11, which was a suit by a wife for restitution of conjugal rights. The plaintiff applied for an interim injunction to restrain the defendant, her husband, from removing his property out of the jurisdiction, pending a motion for payment of interim alimony. The injunction was refused, Sir Jas. Hannen saying that "it is not competent for a Court, merely *quia timet*, to restrain a respondent from dealing with his property."

SECURITY FOR COSTS—INSOLVENT TRUSTEE IN BANKRUPTCY.

Taking up now the reports of the Chancery Division, the first case we think it necessary to call attention to is *Cowell* v. *Taylor*, 31 Chy. D. 34, in which the Court of Appeal held that a plaintiff suing as trustee in bankruptcy will not be required to give security for costs, merely because he happens to be personally insolvent. The only difficulty in the case arose from a *dictum* of Blackburn, J., than whom, as Bowen, L.J., says, "there has been no greater master of law or practice in recent times," and which occurs in *Malcolm* v. *Hodkinson*, 8 Q. B. 209, and which is as follows: "When an insolvent person is suing as trustee for another it has long been the rule to require security for costs," but this, the Court was unanimously of opinion, must be understood as referring not to trustees in bankruptcy, but to the case of an insolvent person suing as bare trustee for some one else, which was the explanation given of it by Hall, V.C., in *In re Carta Para Mining Co.*, 19 Chy. D. 457.

MORTGAGE—COSTS OF ABORTIVE SALE—FORECLOSURE—PERSONAL ORDER FOR PAYMENT.

In *Farrer* v. *Lacy*, 31 Chy. D. 42, the Court of Appeal was called on to determine two points; first, whether a mortgagee was entitled to the costs of an abortive sale under the following circumstances:—The mortgaged property had been put up at auction and sold, and the auctioneer, with the concurrence of the mortgagee, accepted a cheque for the deposit, which, on presentation, was dishonoured, in consequence of which the sale fell through. The Court held that the acceptance of the cheque was not such an act of negligence as to disentitle the mortgagee to the costs. The other question was as to the proper form of a judgment where a mortgagee claims both foreclosure and a personal order for payment on his covenant. The form settled seems substantially to agree with that usual in this Province, with this exception, that the personal order for payment of costs is limited to such costs only as would have been incurred if the action had been brought for payment only of the debt.

PAYMENT INTO COURT—ADMISSION BY DEFENDANT.

In *Porrett* v. *White*, 31 Chy. D. 52, the Court of Appeal affirmed the order of Chitty, J., directing the payment into Court of certain trust funds, admitted by the defendant to have come to his hands, and been invested by him in an unauthorized way. The admission was contained in letters written to the plaintiff, his co-trustee before action. After the action for the administration of the trusts was commenced, the plaintiff made an interlocutory application for payment of this sum into Court, adducing in support of the application the defendant's admission, as the defendant did not answer the affidavit or adduce any evidence, the Court held, that the order was rightly made.

HEARING IN PRIVATE.

Millar v. *Thompson*, 31 Chy. D. 55, is a case in which the plaintiff asked that an appeal by the defendant, from an interlocutory injunction restraining him from disclosing matters communicated to him as solicitor, might be heard in private. It being stated by the plaintiff's counsel, that in his opinion a public hearing would defeat the object of the action, although the defendant's counsel refused to consent, the Court under the circumstances ordered the appeal to be heard in private.

EXONERATION OF PERSONALTY FROM DEBTS—LAPSED BEQUEST.

Kilford v. *Blainey*, 31 Chy. D. 56, which we noted *ante*, Vol. xxi. p. 268, when before Bacon, V.C., is again reported on appeal from that decision. It will be remembered that the question in dispute was as to the effect of a will, whereby the testatrix bequeathed her personal estate to a charity, exonerating it from payment of debts and legacies. As to part of the per-