WILL—CONSTRUCTION OF.—A general devise of all the testator's real and personal property does not carry after-acquired real estate.—*Whateley* v. *Whateley*.—[Mowat, V. C., dissenting.] 14 U. C. Rep. 450.

MARRIED WOMEN—SEPARATE ESTATE.—A married woman who has separate estate which is vested in Trustees cannot, on that account, be sued for a legal debt contracted before her marriage. In such a case a creditor has no *locus standi* in Equity until he has obtained judgment at Law.

Quære —Whether a married woman has any and what *jus disponendi* in respect of her personal property, under the Married Women's Act (Con. Stat. of U. C., chap. 73)—*Chamberlain* v. *McDonald*, 14 U. C. Rep 447.

LUNACY—To avoid a transaction on the ground of lunacy it is not necessary to shew that the lunacy was connected with or led to the impeached transaction.

But to avoid a sale for value by a lunatic, it may be necessary to establish that the purchaser was aware or had notice of the seller's mental condition

Where, amongst other delusions, a vendor who was insane imagined that he was bewitched; and it was proved, that the purchaser learned this from conversation with the vendor during the negotiation for the purchase, and that the purchase money was only one-half the sum which the seller had previously been offered, and might have obtained from another person, the transaction was set aside.—*McDonald* v. *McDonald*, 14 U. C. Rep. 545.

RIPARIAN PROPRIETORS —A riparian proprietor has the same right to forbid others from backing water on his land, as he has to prevent them from taking possession of any other vacant property he has. and making use of it against his will.

Where it appeared that the defendants had backed water on the plaintiff's mills and overflowed their land, but all the backwater or overflow was not occasioned by the defendants, and it was not clear on the evidence what proportion was attributable to them, or what alterations in their works were necessary to prevent the injury occasioned by the defendants, the Court directed an enquiry by an engineer named by the Court under the general orders.

The works of a riparian proprietor should be sufficient to prevent damage to other riparian proprietors, not in cases of ordinary floods only, but also of the periodical or occasional freshets to which the river is subject; but this rule does not in equity apply to extraordinary freshets which cannot be guarded against, or cannot be so by means consistent with the reasonable use of the stream.—*Dickson* v. *Burnham*, 14 U. C. Rep. 594.

ONTARIO REPORTS.

CHANCERY.

MILLS v. MCKAY.

Pleading—Parties—Tax sale.

The corporation of the local municipality is not a proper party to a bill impeaching a tax sale.

[14 U. C. Chan. Rep. 602.]

This was a suit by a mortgagee to set aside a tax sale of land in the town of Woodstock. The sale was impeached, as well on the ground that the taxes were not unpaid, as for various alleged irregularities and acts of misconduct on the part of the County Treasurer, and of the various officers of the town, who by the Statute have to do with the taxation of land and the sale thereof for unpaid taxes. One of the defendants was the Corporation of the town; and the Corporation demurred on the ground of having been improperly made a party.

Roaf, Q. C., for the demurrer.

Barrett, contra.

MOWAT, V. C.—The learned counsel who appeared for the plaintiff referred to *Ford* v. *Boulton*, 9 Gr. 482; as an express authority for making the Corporation a party. My brother *Spragge* there held the local Corporation to be a necessary party, on the ground that a defendant who has a remedy over against another person, has a right to insist on that other person being made a party, so as to avoid the necessity for a second suit. But the learned Vice-Chancellor does not appear to have considered the question, whether there was in fact a remedy over against the Corporation, all parties, it appears, having assumed that the remedy ever existed. It was afterwards expressly held, however, by the Court of Queen's Bench, in *Austin* v. *Corporation of Simcoe*, 22 U.C. Q. B. 73, that a purchaser had no right to recover back his purchase money from the county; and the same view was taken by my brother *Spragge* in the subsequent case of *Black* v. *Harrington*, 12 Grant, 175. If the purchaser has no such right at law, it has not been argued that he had the right in equity. The learned counsel for the plaintiff pointed out, that the case in the Queen's Bench was against the county, not against the local municipality; but the grounds of the judgment apply to both. In the present case it is not alleged by the bill that the money has been paid over to the town.

The learned counsel then contended, that the Corporation was properly made a defendant in order to answer costs, though no other relief could be obtained. But to sustain that position a case of fraud must be charged against the defendant. Here no fraud is charged against the Corporation. The acts compained of are not the acts of the Council of the town; nor is the Council alleged to have been privy to them: they are the wrongful or irregular acts of officers in the