

Smith on Master and Servant, Bl. ed., p. 134. Knowles v. Roberts, 38 Ch. D. at p. 270, Dryden v. Smith, 17 P. R. 512, and Smith v. Boyd, ib. 463, referred to.

Motion dismissed with costs to defendants in the cause.

STREET, J.

DECEMBER 19TH, 1903.

TRIAL.

CROWDER v. SULLIVAN.

*Promissory Note—Illegal Consideration—Unreasonable Restraint on Marriage—Mental Incompetency of Maker.*

Action upon a promissory note for \$1,500 dated 19th September, 1900, made by Albert Rose, payable three years after date to plaintiff or bearer, with interest at 5 per cent. per annum. Plaintiff was an unmarried woman, and defendant was the administrator of the estate of the maker. The defences were that there was no consideration or an illegal consideration, and that at the time of the making of the note the maker was of unsound mind. Plaintiff was in the service of the deceased as his cook and housekeeper. In 1893 a farmer named Levere paid his addresses to her, and they became engaged to be married, but in the spring of 1897 she broke off the engagement, telling Levere that Rose could not do without her. Rose then told her that if she would not marry and would remain with him as long as he lived he would give her \$1,000 in cash or a note for \$1,500, or would provide for her in his will. She said that it was in consequence of this promise that she broke off her engagement, and he fulfilled it in September, 1900, by giving her the note. In December, 1900, he became suddenly insane, and died in November, 1901. Plaintiff had been hired by the deceased originally at \$8 a month, and her wages were never increased, but were paid to her regularly at that rate. The only consideration for the giving of the note was the agreement made in 1897, viz., that if plaintiff would not marry Levere or any other man so long as Rose lived, but would remain with him during his life, he would do one or other of the three things mentioned. The