their can be no such privilege, unless the client could refuse to produce the deed.

As Lindley, L.J., observes, very justly, if the law were otherwise than it is decided to be in this case, "judgments in favour of creditors against married women would, in many cases, be useless."

AFFIDAVIT OF SERVICE—WRIT SERVED OUT OF JURISDICTION.

In *Ford* v. *Miesske*, 16 Q. B. D. 57, a Divisional Court held, that where a writ is served out of the jurisdiction, a certificate of service of the process could not be received in lieu of an affidavit of service, even though it appeared that by the law of the country where the service was effected, the process server could not make an affidavit as required by the Rules.

RULE IN SHELLEY'S CASE—EQUITABLE ESTATE—REMAINDER—POWER OF SALE.

What the Statute of Frauds is in the law of contracts, such is the rule in Shelley's case, in the law of real estate—a perennial fountain of litigation. *Richardson* v. *Harrison*, 16 Q. B. D. 85, is a decision of the Court of Appeal touching the rule in Shelley's case. By a will made in 1833 a testatrix devised lands to trustees in fee, upon trust for her daughter during her life, and after her decease upon such trusts for the lawful child or children of the daughter as she should by deed or will appoint; and in default of appointment in trust for the daughters' heirs. The testatrix directed that the receipts of the daughter should be a discharge to the trustees, and that she should hold the property to her separate use, free from the debts or control of any husband she might marry. The trustees were also empowered to sell the land with the consent of the daughter, "or other the persons or person who shall be beneficially interested under the trusts." The daughter, after her mother's death, conveyed the land to the defendant in fee, and died without having been married. The action was brought by her heir-at-law to recover possession of the land. The Court of Appeal (overruling the judgment of a Divisional Court composed of Manisty and Wills, JJ.,) held that the daughter, under the rule in Shelley's case, took a fee. It is curious to note the various opinions which modern judges entertain with regard to the merits of this rule. In the present case Lord Esher, M.R., goes so far as to say that it is a decision which he could never understand how anybody could come to.

It is a well-known doctrine that in order that the rule can operate, the two estates which are sought to be joined together, must be both legal, or both equitable. A legal estate for life will not coalesce with an ultimate equitable remainder in fee, nor will an equitable estate for life coalesce with a legal remainder in fee, and the question in this case was whether the ultimate remainder in fee of the daughter was a legal or equitable estate: if the former, the rule in Shelley's case would not apply; if the latter, it would, as it was conceded the daughter's life estate was an equitable one. In arriving at the conclusion that the legal estate was vested in the trustees, and that consequently the daughter's remainder in fee was equitable, the Court was influenced by the consideration that the will gave the trustees power to reimburse themselves, and also a power of sale, which power could not be exercised without possession of the legal estate. But Cotton, L.J., dealt with the question as turning to a great extent upon the intention of the testatrix to be collected from the will. He says, at p. 108:

> The question generally is, whether in the will it is apparent that the testator intended the trustees to have the legal estate for any limited period, or for all time? On this ground, in construing wills, what has been done is this, to give the legal estate in accordance with what the Court sees is the intention of the testator; therefore, when there are words of trust or words of devise to trustees to uses or upon trusts, the Court executes the uses or the trusts, not by force of the Statute of Uses, but by giving the legal estate to the trustee or to the beneficiary according to what the Court sees to have been the intention of the testator.

DEFAMATION—PRIVILEGED COMMUNICATION.

The only remaining case to be noticed in the Queen's Bench Division is that of *Proctor* v. *Webster*, 16 Q. B. D. 112, in which Pollock, B., and Manisty, J., decided that a letter addressed by the defendant to the Lords of the Privy Council, charging the plaintiff with irregularities in the exercise of his office as Inspector under the Animals Contagious Diseases Act, the plaintiff being removable by the Privy