

Q. B. PERRY v. ATTWOOD. June 3.

Pleading—Plea of account stated, all the items being on one side, and balance of payment—Error in stating account—Accord and satisfaction.

In an action for breach of a covenant to pay a certain sum for every ton of ore raised, defendant pleaded that the plaintiff and defendant met and examined the defendant's books, and agreed on a certain sum as the balance due to the plaintiff, and that plaintiff paid that sum before action. Plaintiff replied that the accountings were erroneous, certain amounts of tonnage rent having been omitted by mistake, and that the balance agreed was erroneously agreed to be that due.

Held, first, that on the authority of *Smith v. Page*, 15 M. & W. 683, the plea was bad, the items of the account being all on one side: secondly, that the replication was good.

Q. B. BENNETT v. THOMPSON. May 31.

Costs, certificate for—Under 13 & 14 Vic., cap. 61, sec. 12.

In an action on the case for a nuisance brought in one of the Superior Courts, the plaintiff recovered only 40s. damages.

Semble, that the certificate made necessary by sec. 12 of 13 & 14 Vic., cap. 61, to entitle him to his costs, may be given after the trial.

Q. B. MARVIN v. WALLIS. June 4, 5.

Statute of Frauds, sec. 17—Sale of horse—What amounts to a receipt.

An agreement having been made for the purchase and sale of a horse at a certain price, the vendor, without delivering the horse into the manual possession of the vendee, asked the latter if he might take the horse with him on a journey, to which the vendee consented. The vendor having taken him on the journey the vendee subsequently refused to accept him and to pay the price. In an action for the price, the Jury found that the contract for sale was complete, and that subsequently thereto the vendor's use of the horse was by way of loan.

Held, that there was a sufficient acceptance of the horse within the Statute of Frauds.

C. P. EASTMEAD v. WITT. June 9.

Slander—Privileged communication—Express malice.

A master dismissed two of his domestic servants, A. and B. A. came to the master and asked him the cause of the dismissal. The master said that he (A.) and B. had robbed him, (the master.)

Held, in an action by B. for the slander that the communication was privileged. What—not evidence of express malice.

B. C. IN THE MATTER OF AN ATTORNEY. June 7.

Attorney—Summary jurisdiction over after action against—Double remedy.

Where an award arising out of an action against an attorney was made against him—but he kept out of the way and did not pay the sum awarded, being money entrusted to him for investment which he had appropriated a summary remedy against him was refused.

Q. B. SLOPER v. COTTERELL. June 6.

Husband and wife—Action by husband for money received to separate use of wife—Trust fund—Assignment—Notice—Equitable plea and replication.

To an action for money received, the defendant pleaded on equitable grounds, that the money was bequeathed to the sole

and separate use of the plaintiff's wife during coverture, and was paid to the defendant by the executors upon her separate receipt, and that she, in her lifetime, disposed of and assigned the fund upon trusts in which the plaintiff took no interest, and that the defendant held the money upon those trusts. The replication to that plea on equitable grounds alleged a prior assignment by the wife to the husband, before the receipt of the money by the defendants; and that the defendant received the money merely as agent for the wife, in order to get in the money from the executors as the money of the plaintiff.

Held, that the plea was good, but that the equitable defence thereby set up was answered by the replication, and that the defendant could not object that upon the plea and replication the plaintiff's title appeared to be only an equitable one.

B. C. In re SHAW AND PITT'S ARBITRATION. June 6.

Arbitration—Distress, expenses of—Mistake of law—setting aside award.

An arbitration to whom a question of the legality of a distress was submitted, made his award in favour of the applicant, but deducted the expenses of the distress, which he decided was illegal, from the sum awarded. The applicant's attorney subsequently saw him, and told him he ought not to have made that deduction, and he said he had done so by a mistake from inadvertence. Upon an application to set aside or refer it back, on the ground of mistake, the former branch of the rule was refused.

C. B. HIRSCH v. COATES; FOUNTAIN, GARNISHEE. June 12.

Attachment of debts—Common Law Procedure Act, 1854.

Debts already assigned are not liable to attachment at the suit of the judgment creditor of the assignor.

Quere, whether the 61st section of the C. L. P. Act, 1854, is applicable to debts which are not enforceable under the subsequent clauses of the Act.

C. B. TARRANT v. WEBB. June 18.

Master and servant—Liability of master to servant for injuries caused by negligence or unskillfulness of fellow servant.

A master does not guarantee his servant against accidents caused by the negligence or unskillfulness of the fellow servants with whom he is associated, or warrant their competency. His duty is only to take all due and reasonable care to employ skilful and competent persons as servants.

EX. JONES v. BROWN. May 7.

Partnership property—Action by one tenant in common against another.

Where one tenant in common does not destroy the thing in common, but merely takes it out of the possession of the other and carries it away, no action lies against him by the other tenant in common.

IN THE MATTER OF HODGSON AND BROWN'S ARBITRATION.**B. C. May 7, 29.**

Arbitration—Meeting behind back of one of the parties—Interference of attorney—Setting aside award—Legal maxim.

H. and B. referred a matter to three arbitrators, two chosen by the parties respectively, and the third by the other two. The arbitrators met, and having agreed on their award, a writing, signed in duplicate, was delivered to the arbitrators chosen by the parties for delivery to the respective attorneys, but not as the formal and final award. B.'s attorney discovered a blunder