

MONTHLY REPERTORY.

COMMON LAW.

EX. EDWARDS AND ANOTHER V. SOUTHGATE.

Contract—Lien—Shipping agent—Bill of lading—Liability in Trover.

A shipping agent having a lien on the bill of lading of goods he has shipped, may, if the lien is not satisfied before they have reached their destination, have the goods brought home in order to retain his lien upon them, and is not liable to any action for so doing.

EX. C. BEGGE ET AL V. PARKINSON.

Contract—Implied and express agreement.

Where A., a provision merchant, agreed with B., a ship owner, to supply him with provisions for the use of passengers on board his ship, with knowledge on A.'s part of the purpose for which the goods were destined, and it was specifically and expressly agreed that such goods were guaranteed by the seller A. to pass the survey of the officers appointed by the East India Company.

Held, in error on bill of exceptions that the express guarantee that the goods should pass such survey did not exclude the implied contract on the part of A. that the provisions so furnished should be fit for the intended voyage.

EX. HOLME V. CLARK AND ANOTHER.

Practice—New Trial—Surprise.

A party to a cause, who has not been called as a witness, cannot have a new trial on the ground of surprise, in regard to the effect of any conversation with himself, at all events, if he admits some conversation to have occurred, and the effect of it is not necessarily decisive of the case.

EX. WILSON V. CHARTIER.

Practice—Ejectment—Execution—Habere facias possessionem—Retaking possession by the defendant.

Although when an execution is in progress the court will enforce obedience and punish resistance to its process, by attachment, for contempt, and when possession is forcibly retaken before the writ is returned, will allow a fresh writ to be issued; yet when possession is retaken after the writ is returned, it will not interfere summarily by rule or order to enforce re-delivery of possession.

CHANCERY.

V. C. S. McCULLOCH V. McCULLOCH.

Will—Construction—Legacy to a single woman with gift on her marriage.

A. (*inter alia*), bequeathed to B. (a single woman), the sum of £3000 sterling, "the interest thereof to be for her sole and separate use during her lifetime, and while she continues unmarried; thereafter, should she marry, the principal and interest to go over to the residuary legatee."

Held, that there was a gift of principal and interest to B., subject to be divested on her marriage.

V. C. S. LOFTUS V. MAW.

Specific performance—Services in consideration of promise to bequeath—Codicil—Revocation.

A. rendered domestic services on the faith of a promise by B. that he would compensate her, and of a codicil by which, in pursuance of such promise, he bequeathed to her a life interest in certain houses. B. revoked that codicil by another which was duly proved.

Held, that it appearing that A. had been induced to render valuable services to B., on the faith that by so doing she would become entitled to the benefit of the trusts created in her favour by the former codicil, the testator had no right to revoke the same, and that such trusts must be performed.

M. R. PARSONS V. HAYWARD.

Partnership—Articles—Term of years—Continuation of business after expiration of term—Account of profits—Notice of dissolution.

A and B were partners under articles of partnership, which provided that the term of the partnership should be seven years, that the business should be carried on in the name of B, who should reside on the business premises and act as managing partner, and that at the expiration of the partnership the assets should be realised, sold and divided. After the seven years had expired the same business was still carried on in the same place and under the same style, but no notice was given by either partner to the other that the former arrangement was to be considered at an end. The capital of A still remained in the business. In consequence of the claim made by A to the whole profits of the business since the expiration of the term, A filed his bill for a dissolution of the partnership and the usual accounts upon the footing of the partnership deed.

Held, that as the articles required that the partnership assets should be realised and divided at the expiration of the partnership, B ought to have adopted that course if he wished to deprive A of a right to participate in the future profits of the business, and not having done so, but having allowed the business to go on in the same way as during the term, the profits up to the time of the sale and realisation of the business must follow the same rules as those provided in the articles, and that the accounts ought to be taken upon that footing.

Where a partnership business for a term is carried on after the expiration of the term, although either party may then put an end to the arrangement by notice, yet, until he does so put an end to it, the business will be presumed to have been carried on upon the previous footing.

BOOK REVIEWS.

Several periodicals are before us for notice. We shall endeavour to review them in our next number.

APPOINTMENTS TO OFFICE, &C.

NOTARIES PUBLIC.

DONALD GUTHRIE of Guelph, Gentleman, to be a Notary Public in Upper Can. Ja. (Gazetted February 25, 1863.)

CHARLES BERTRAM ORDE of Lindsay, Esq., Attorney-at-Law, to be a Notary Public in Upper Canada. (Gazetted Feb. 28, 1863.)

WILLIAM HENRY WALKER of Ottawa, Esq., Attorney-at-Law, to be a Notary Public in Upper Canada. (Gazetted Feb. 28, 1863.)

JOHN DOWNEY of Toronto, Esq., Attorney-at-Law, to be a Notary Public in Upper Canada. (Gazetted Feb. 28, 1863.)

THOMAS JAMES FITZSIMMONS of Brockville, Esq., to be a Notary Public in Upper Canada. (Gazetted Feb. 28, 1863.)

D. MITCHELL McDONALD of Toronto, Esq., Attorney-at-Law, to be a Notary Public in Upper Canada. (Gazetted March 7, 1863.)

WILLIAM DAVID HAMMOND of Wardsville, Esq., to be a Notary Public in Upper Canada. (Gazetted March 7, 1863.)

JOHN MCGILL CHAMBERS of Smith's Falls, Esq., to be a Notary Public in Upper Canada. (Gazetted March 7, 1863.)

PHILIP MCKENZIE of London, Esq., Attorney-at-Law, to be a Notary Public in Upper Canada. (Gazetted March 7, 1863.)

CORONERS.

JOHN BIGHAM, Esq., M.D., Associate Coroner for the United Counties of Huron and Bruce. (Gazetted March 7, 1863.)

TO CORRESPONDENTS.

T. S.—A CLERK Co. W.—M.—M.P. (London).—Under "Division Courts."

A. M.—Your communication must be addressed to the Editors of the Law Journal, and so published by us. In its present shape we can make no use of it.

LESLIE FATUOS.—Too late for this number. Will receive attention in our next.

EVING.—Received, but too late for present issue.