The Legal News.

Vol. III. FEBRUARY 21, 1880. No. 8.

A CASE IN THE WINDWARD ISLANDS.

A case of some note, *Simmons & Mitchell*, has occurred in the Windward Islands, and we have received a copy of the *St. George's Chronicle*, in which the opinions of the Circuit Court of Appeal, the highest colonial tribunal in the islands, appear at length. The Judges who sat in the case were Chief Justice Armstrong (formerly of the Quebec bar) of St. Lucia, Chief Justice Wattley of Tobago, Chief Justice Trafford of St. Vincent, and Chief Justice Packer of Barbados. It was an action for slander, and the question was whether the Judge had properly instructed the jury to find a verdict for the defendant upon the ground that the words alleged to have been uttered by the respondent Mitchell were words of mere suspicion and not actionable. A rule was obtained by the appellant, for the respondent to show cause why the verdict should not be set aside and a new trial ordered, and the Court ordered the rule to be discharged. In the Court of Appeal two of the Judges—Chief Justices Armstrong and Wattley—were of opinion to affirm the judgment, and other two considered that it should be reversed. We presume, therefore, that the judgment was affirmed, though the report before us omits to state the fact.

The words complained of were that defendant said to the plaintiff's brother: "People that go to report others' characters to the Secretary of State should mind that their characters are clean and free. *Your brother lies here strongly suspected of having murdered a man years ago at the Spout.*" And he afterwards named the man referred to. These words were held to imply mere suspicion, and not to make any charge. The case was decided according to English law. The judgment of Tindal, C. J., in *Ward* v. *Weeks*, 7 Bing. 211, was cited, in which he says: "As the words spoken do not contain the charge of any legal definite crime, nor alleged to be spoken of the plaintiff in the way of any trade or business, so as to impute dishonesty to him in such trade, the words are not actionable *per se*." The recent cases of *Dublin, Wicklow & Wexford Railway* v. *Slattery*, 3 App. Cas. 1155, and *Metropolitan Railway Co.* v. *Jackson*, 3 H. L. 193, were also cited by Chief Justice Armstrong.

There was a further question in the case, if the Court had held the words to be actionable, whether they were not privileged. It appeared that Mitchell begged the plaintiff's brother "for God's sake not to tell his brother" what he had said. Baron Bramwell, in a case to be found in 34 *Law Times* (N.S.) p. 500, observed: "If I make a slanderous statement to a man and do not desire to authorize him to repeat it, but nevertheless he does so, he ought to do it upon his own responsibility, and I ought not to be liable for the consequences of his wrongful act." But as the words were held to be not actionable, this question did not require to be decided.

SHERIFF'S SALES.

It is necessary to revert to a case of *Comp. de Prêt & Crédit Foncier & Baker*, noted at pp. 345, 349 of Vol. 2 of the Legal News, in order to avoid a misapprehension as to the grounds of the decision there referred to. It was an action by the *adjudicataire* to have a *décret* set aside on the ground of misdescription, under Art. 714 C. P., which says that a sheriff's sale may be set aside at the suit of the purchaser, "if the immoveable differs so much from the description given of it in the minutes of seizure, that it is to be presumed that the purchaser would not have bought had he been aware of the difference." In this case the purchaser relied upon two errors of description, first, that the property was described as being forty-five feet front, whereas, in fact, it was only thirty feet front; and secondly, that the property was said to have a two-story wooden house thereon, whereas, in fact, the house stood partly on the lot sold, and partly on the adjoining lot. In appeal, the purchaser argued the case strongly upon the ground that the lot contained only two-thirds of its described contents, and that he would not have bought it if he had been aware of the error. In the note of this case previously published, the judgment of both Courts is represented as having sustained this pretension. But the opinion of the Chief Justice, which we believe was not read at