

possession of the animal by the vendee, and the vendee had nothing to rely upon except the original verbal sale made four days previously.

Ewart, Q.C., for the plaintiffs.

Macdonald for the defendant.

BAIN, J.]

GILES v. HAMILTON PROVIDENT, ETC., SOCIETY.

[July 26.

Costs—Suit for account in equity—Trustees—Mortgage.

In this case the plaintiff, being second mortgagee on certain property on which the defendants had a first mortgage, filed a bill to compel them to account for the surplus proceeds of the sale of the property under their mortgage. Defendants admitted a surplus of \$28, and offered to pay it, but the plaintiff, contending that the solicitor's costs charged were excessive, was not willing to accept this. At the hearing of the cause, a decree was made with a reference to the Master to take an account, and the Master reported that the surplus payable by the society was \$64.16, having taxed down the bill of solicitor's costs. The matter now came before the Court for the determination of the costs of the present suit.

Held, that the plaintiff was liable for defendant's costs up to and including the hearing and decree, and that no subsequent costs should be allowed to either party. *Charles v. Jones*, 35 Ch.D. 544, followed.

Bradshaw for the plaintiff.

O. H. Clark for the defendants.

Law Students' Department

LAW SCHOOL EXAMINATIONS.

THIRD YEAR PASS: MAY, 1895.

EVIDENCE.

Examiner: W. D. Gwynne.

1. How does Best distinguish evidence *ab intra* and evidence *ab extra*?
2. Explain and illustrate by examples the following divisions of evidence: original, casual, real.
3. State fully the functions of judge and jury respectively in matters of evidence.
4. Sketch briefly the growth of the law admitting the evidence of children.
5. On an indictment for obtaining money by false pretences, evidence is offered to show that the prisoner subsequently obtained money in a like manner from another person: is this evidence admissible? Explain.
6. Give an instance of the rule that special presumptions take precedence of general.