

Chan. Cham.]

NOTES OF RECENT DECISIONS.

[Chan. Cham.]

the Court can say that the party having the legal custody sufficiently represents the other party interested.

But in such case the party in whose possession the documents are, will be required to give discovery of their contents, and to furnish the information in his affidavit on production with as much particularity as was required in answering interrogatories as to documents under the former practice.

MERCHANTS' BANK V. TISDALE.

Production of documents—Materiality of the issue in the cause.

[THE REFEREE, 7th March, 1873.]

Before decree no discovery will be ordered which appears to the court to be immaterial to the question to be tried at the hearing.

CRESWICK V. THOMPSON.

Opening biddings—Gen. Order 388—Special grounds.

[THE REFEREE, 8th March, 1873.]

The Court is strongly disinclined to open biddings, unless very special grounds are shown.

The fact alone that a price can be obtained in advance upon that realized at the sale, does not constitute such a special ground.

An inadequate description of the property in the advertisement will be a sufficient ground, if calculated to mislead or deter the public from purchasing, but not otherwise. Exceptions of this kind amounting only to a complaint that all the advantages of the property have not been sufficiently dwelt upon in the advertisement should be taken upon the settling of the advertisement.

PAXTON V. DRYDEN.

Motion to commit for disobedience of a direction of a Master—Evidence of default.

[THE REFEREE, 8th April, 1873.]

A party moving to commit for disobedience of any order or direction of a Master, must show that the person moved against has disobeyed the order, and is in default, by means of a certificate of the Master.

It will be insufficient in Chambers to prove by any other means the service of the order, and that it has not been complied with, as the Master is the proper person to decide both these facts.

SMITH V. SMITH.

Interim Alimony.

[STRONG V.C., on appeal from REFEREE, 24 Feb. 1873.]

A plaintiff makes out a *prima facie* case for interim alimony by producing (1) an office copy

of the Bill which need not be verified by affidavit, and (2) proof of marriage; but if the defendant oppose the application on the ground that the plaintiff has ample means of support, unless she can show the contrary to be the case the application will be refused.

REDMAN V. BROWNSCOMBE.

Married Women—Next Friend—Security for Costs—Statutes—35 Vict., c. 16, s. 9 and 29-30 Vict., c. 45, § 1.

[THE REFEREE, 12th April, 1873.]

A married woman brought a suit in her own name for redemption of lands in which she claimed an estate for life under a lease made in 1866. *Held*, not her *separate* property so as to enable her to sue without a next friend under 35 Vict. c. 16, § 9.

A former suit in respect of the same subject-matter, in which the Bill had been dismissed with costs to be paid by the next friend of the plaintiff, was considered as substantially a decree against the plaintiff with costs, and proceedings were stayed in a second suit until security should be given for the costs of the second suit.

A stay of proceedings until the costs of the former suit were paid was refused, there being a distinction in this respect between suits by married women and suits by persons *sui juris*.

RE WESTERN INSURANCE CO.

Petitions—Practice as to—Irregularity—Dismissing for want of Prosecution.

[THE REFEREE, 18th April, 1873.]

It is unnecessary and irregular to file a petition before it is heard. The proper proceeding in order to bring it before the Court is to serve a copy with a notice of a day for hearing endorsed.

This practice is applicable to petitions under the Insurance Co.'s Act, 31 Vict., c. 48. But as by this Act no special procedure is provided for making application under it to the Court, when proceedings were initiated by a *Petition* which had been filed but not served upon the Respondents, nor brought to a hearing after a lapse of fourteen months, it was treated as a Bill and ordered to be taken off the files for want of prosecution.

RE GOODHUE.

Appeal—Costs of reference under a Decree reversed on appeal.

[THE REFEREE, 6th May, 1873.]

The Court of Error and Appeal having reversed an order of Court of Chancery and directed