

V. C. W. GIBBS v. LAWRENCE. Nov. 20.

Will—Construction—“Goods chattels and effects.”

A testator gave all his household furniture, plate, linen, china, pictures, and other the goods, chattels, and effects which should be in, upon, or about his dwelling house and premises.

Held, that bank notes and gold did not pass under this bequest.

M. R. LYWOOD v. WARWICK. Nov. 23. 24.

Will—Construction—“Issue Male”—Males claiming through females excluded.

Gift of stock to A. for life, and after his death unto and amongst his issue male.

Held, that the words “issue Male” meant “Issue male claiming through males” and that males claiming through females were excluded.

COMMON LAW.

EX. LECH v. LILLIE. Nov. 9.

Lease—Covenant to pay increased rent—Pleading.

Where in a lease there was a covenant that straw, &c., should not be carried off the farm without the consent of the plaintiff (the lessor), unless an increased rent of £10 for every ton &c., so carried off should be paid to the plaintiff.

Held, that a declaration upon this covenant, which alleged that straw, &c. was taken off the farm, but did not allege that the increased rent was not paid, was bad.

C. C. R. REG. v. GEORGE OLIVER. Nov. 10.

Common Assault—Verdict of—Indictment for inflicting grievous bodily harm—Arrest of Judgment.

Where a prisoner was found guilty of a common assault upon an indictment for inflicting grievous bodily harm, and actual bodily harm, the conviction was held good.

C. C. R. REG. v. HENRY SPARROW. Nov. 10.

Assault with grievous bodily harm—Common Assault—Verdict of “aggravated assault”—Malice.

Upon an indictment containing counts for assaulting and maliciously inflicting grievous bodily harm, and a count for a common assault, after evidence of grievous injuries inflicted by the prisoner, the judge told the jury there was evidence to go to them of grievous bodily harm; and that the question of whether the prisoner intended to inflict grievous bodily harm did not arise. The jury found the prisoner guilty of “an aggravated assault” without premeditation, under the influence of passion.

Held, that the assault was intentional in the understanding of the law; that upon the facts the jury were justified in finding the defendant guilty of an assault with grievous bodily harm, and that the prisoner was properly convicted of that offence.

C. C. R. REG. v. HOLT. Nov. 10.

False pretences—Evidence of an obtaining money not charged—Inadmissible—Intent.

Upon an indictment for obtaining money from H. by false pretences, it appeared that the defendant was employed to take orders for goods, but had no authority to receive the price; and that eleven days after he was so employed he obtained the money from H, by representing that he was authorized by his employer to receive it for goods delivered in pursuance of an order which the defendant had taken. Evidence of an obtaining by a similar representation from another person, within a few days of the time when the monies were obtained from H, not charged in the indictment, was tendered for the prosecution to prove the intent; and after objection, admitted.

Held, that the evidence objected to was inadmissible.

C. C. R. REG. v. JAMES TONGUE. Nov. 10.

Embezzlement as servant—Secretary of money club—Suing on a note by direction of a club and appropriating proceeds—Isolated employment to receive money.

The prisoner, being the secretary of a money club regulated by rules, which, as well as the practice of the club, were stated in the case, was directed by the club to sue upon a joint promissory note, the property of the club, or get better security; and the note was handed to him by W., the Treasurer, who was not a member of the club, and who, at the same time, desired that his name should not be used in legal proceedings. The prisoner indorsed W's name on the note, employed an attorney who issued a writ, and in consequence of the action money was paid to the prisoner by one of the joint makers, which he fraudulently withheld from the club and appropriated.

The duties of the prisoner stated in the rules of the club, comprised duties cognate to that of receiving money for the club, but not expressly that duty.

Held, (Crampton, J., *dubitante*), that the prisoner had received the money as servant for the use of the club, and that he was properly convicted of embezzlement.

Held, also, that the employment to receive money was sufficient, though receiving money was not the prisoners usual employment, and it was the only instance in which he was so employed.

C. P. EVANS v. REEZ. Nov. 17.

Costs—Slander.

In an action of slander in which the plaintiff gets less than 40s. damages, the judge cannot certify to give him more costs than damages, the 21 James 1, c. 16, s. 6, not being repealed by the 3 & 4 Vict., c. 24.

C. P. PARIS v. LEVY. Nov. 16.

Libel—Comment on handbill—Publication in writing of oral comment on handbill.

If an oral criticism be made on the contents of a handbill, and that oral criticism be published in a newspaper, in an action against the proprietor of the newspaper for a libel for so publishing, it is for the jury to say whether the criticism was fair and reasonable, and not reflecting on the plaintiff's private character. If the action be for publishing an article in the newspaper reflecting on the tendency of the contents of the handbill, the same question as above is for the jury as to the criticism in the article.

Q. B. SAUNDERS v. EPPE. Nov. 9.

Will—Construction—Contingent remainder—Trustee to preserve.

A testator devised an estate to his wife for life, and upon the determination of that estate by forfeiture or otherwise to a trustee to preserve contingent remainders, nevertheless upon trust for his wife for life, and after her death he gave, devised, and bequeathed the rents to his two daughters in equal parts for life; and in case of the death of either without leaving issue, then to the survivor; but if either daughter should leave issue, such issue to be entitled to the mother's share, and on the death of both daughters, then he devised one moiety to the issue of each daughter or the whole to the issue of one, if the other should die without issue.

Held, that the legal estate was in the trustee until the death of both daughters.

C. P. ST. LOSKEY AND LEVY v. GREEN AND ANOTHER. Nov 7.

Amendment—Real question in controversy between the parties—Statutes of amendment—Costs of amendment—Common Law Procedure Acts.

A judge is bound to amend the pleadings so as to raise the real question in controversy between the parties. Where an amendment was made in the declaration, the costs were made defendant's costs in the cause.