

thought that a trustee could disclaim the office of trustee, and nevertheless take the legal estate."

MORTGAGE—SOLICITOR AND CLIENT—EXPECTANT HEIR—BONUS—COLLATERAL ADVANTAGE—CHAMPERTY—REDEMPTION.

*James v. Kerr*, 40 Chy.D. 449, was an action for redemption. The plaintiff being in poor circumstances, was defendant in a probate action, in which he claimed a share of certain real estate as co-heir of the deceased. He borrowed money from the defendant, who was a solicitor, to enable him to conduct his defence, and executed a mortgage on his interest in the land in question, whereby he covenanted to employ a particular solicitor in the action, and if he was successful to pay the defendant £225 "by way of bonus," and charged the estate with the payment of the sum advanced and interest at 5% and the £225 bonus. The plaintiff succeeded in his claim in the probate action. It was held by Kay, J., that the mortgagee was entitled to redeem on payment only of the sum actually advanced, with interest, and that he was not bound to pay the £225; that the mortgage was tainted with champerty, and the bonus was a collateral advantage which the mortgagee could not legally stipulate for, and that the transaction was voidable as an undue advantage obtained from the plaintiff under the pressure of distress. At p. 460 he says: "I believe, with Lord Romilly, that the rule that a mortgagee should not be allowed to stipulate for any collateral advantage beyond his principal and interest did not depend on the laws against usury. The rule was entirely independent of the rate of interest charged. There seems less reason than ever for allowing it, now that persons may agree upon any rate of interest they please."

HUSBAND AND WIFE—SEPARATE PROPERTY OF WIFE—GIFT BY WIFE TO HUSBAND—CAPITAL—INCOME.

*In re Flamank Wood v. Cook*, 40 Chy.D. 461, was a claim by a widow to rank as a creditor against her deceased husband's estate. It appeared that she was entitled to a sum of money for her separate use under a will. A mortgage for a larger sum held in trust for the testatrix was in 1867 transferred by the claimant and another person, as executors of the trustee, to the husband of the claimant, he paying out of his own money the difference between the amount due on the mortgage and the amount due to his wife. In 1869 the husband sold the mortgaged property and received the purchase money, and his wife and the other executor of the original mortgagee, as such executors, concurred in the conveyance to the purchaser. The husband applied the purchase money to his own use. The husband and wife lived together in amity until the husband's death in 1885, and no proceedings were ever taken by the wife in respect of the money so received, nor did she receive any income in respect thereof. By his will, made in 1860, the husband gave his wife a life interest in his property. She now claimed to rank as a creditor on his estate for the sum received in 1867, with subsequent interest. She denied that she ever gave him authority to receive the money, and there was evidence that she objected to his receiving it, and she did not appear to have had any separate advice in the matter. Under these circumstances