

something to the contrary in the Act itself." It is argued, on the one hand, that the words "not being under any legal capacity" are words to the contrary of "man" being held to include "woman;" on the other, that those words merely refer to "minority," "marriage," and such-like incapacities. There is this in favour of your view (and it may have been intended in high quarters), viz., that when I put the question to Mr. Disraeli, whether it was intended, he gave me an evasive answer; and when Mr. Mill proposed the word "person" instead of "man," he (Mr. Disraeli) abstained from voting: but that the House did not mean it is clear, from the fact that we who voted for it were in a considerable minority. With this, however, no judge has any thing to do. It is a pure question of law, and I think, a very arguable one as it stands.—*Exchange*.

SIMPLE CONTRACTS & AFFAIRS OF EVERY DAY LIFE.

NOTES OF NEW DECISIONS AND LEADING CASES.

MUTUAL INSURANCE COMPANIES.—A. insured with a mutual insurance company, by a policy expiring on the 26th June, 1863. The 29 Vic. cap. 37, passed on the 18th September, 1865, enacted that no suit should be brought on any policy after one year from the loss, or one year from passing the act, if the loss had happened before, *saving the rights of parties under legal disability*.

To a plea that the loss happened before the act, and that the action was not commenced within one year from its passing, defendant replied that when the act was passed, A. was in prison (not saying for felony), and continued there until his death on the 21st February, 1867, and that the action was commenced within a reasonable time after his death.

Held, that the replication was no answer to the plea.—*Tullman et al., Executors of Tullman, v. The Mutual Fire Insurance Company of Clinton*, 27 U. C. Q. B. 100.

DOWER — CERTIFICATE OF EXAMINATION.—A certificate on a deed executed in 1816, to which the wife of the grantor was not a party, stated that "on the 30th May, 1829, personally came before me, A. F., Judge of the Midland District Court, Mary, wife of the within named Robert McNally," and being examined, &c, consented to be barred of her dower. The grantor was described in the deed as of the town of Kingston, in the county of Frontenac.

It was objected that the wife did not appear to have been resident in the county when the certificate was given; but, *held* otherwise, for the presumption was that she resided with her husband, and that his residence continued the same.

Held, that the 2 Vic. cap. 6, sec. 4, clearly removed any objection, on the ground that she was not a party to the deed.—*McNally v. Church* 27 U. C. Q. B. 103.

TENANT—ACTION OF TRESPASS BY.—In action of trespass to land, where the plaintiff is a tenant only, the duration of his term must be shown, the measure of damages being the diminished value of his interest.

The trespass complained of was removing a fence, in May, 1866. The plaintiff's landlady swore that she leased the place to the plaintiff in November, 1865, and added, "Plaintiff was my tenant when the rails were taken away, paying so much a year, taxes and statute labour." There was no further evidence as to the nature of the lease or duration of the term.

Held, that the damages should not as a matter of law, have been nominal only, but estimated on the injury the loss of the fence would cause to the plaintiff during the five or six months for which he then had a right to possession.—*Fisher v. Grace*, 27 U. C. Q. B. 158.

JURORS—NEW TRIAL.—Conversations had with jurors about the case on trial by the friends of the prevailing party, intended and calculated to influence the verdict, constitute a sufficient cause to warrant the court in granting a new trial, even though not shown to have influenced the verdict in point of fact, and though they were had without the procurement or knowledge of the prevailing party and listened to by the jurors without understanding that they were guilty of misconduct in so doing.

A motion for a new trial, upon the ground of misconduct by jurors during the trial, need not contain an averment that the misconduct was unknown to the moving party before the jury retired. It would seem to be otherwise when the objection to the juror is some matter which existed before the trial commenced, and which might have been a cause for challenge.

The fact that the moving party neglected to inform the court, before the jury retired, of misconduct on the part of jurors during the trial which came to his knowledge, would not, if proved, necessarily, as a matter of law, defeat the motion for a new trial, but would be one circumstance to be considered with others by the court in determining whether, in their discretion, to set aside the verdict.—*McDaniels, Executor, &c. v. McDaniels*, Am. Law. Reg. 729.

JUDGE—SLANDER.—Plea to a declaration for slander, that the defendant was a county court judge, and the words complained of were spoken by him in his capacity as such judge, while sitting in his court, trying a cause in which the present plaintiff