

In Equity, Barker, J.] DEBURY v. DEBURY. [August 27.

*Married Women's Property Act—Woman married before the commencement of Act—Rents and profits—Title of husband—Tenancy by the curtesy.*

A married woman married before the commencement of the Married Women's Property Act, 58 Vict., c. 24, is entitled under s. 4 of the Act to the income of her real estate during her life, but she may not by deed not joined in by her husband dispose of her real estate to the exclusion of the husband's tenancy by the curtesy.

*A. A. Stockton, K.C., and D. Mullin, K.C., for plaintiff. A. O. Earle, K.C., and C. J. Coster, for defendants.*

In Equity, Barker, J.] IN RE TURNER. [August 27.

*Referee's report—Formalities—Evidence—Notice of hearing before referee.*

A motion to confirm the report of a referee on an application for the appointment of a guardian to an infant was refused where the order of reference was not attached to the report, and the evidence before the referee was in lead pencil, and illegibly written, and not entitled in the matter, and it appeared that notice of the hearing before the referee had not been given to the relatives of the infant.

*Harris for motion.*

In Equity, Barker, J.] [August 27.

SAUNDERS v. RICHARDS, LIMITED.

*Court of Equity—Jurisdiction—Assessment of damages—Sufficiency of evidence—Carrying away of dam—Riparian owners—Diversion of stream—Proof of damages—Mandatory injunction.*

Where the liability for damages to land caused by the carrying away of a dam by a freshet was denied, and the evidence as to the extent of the injury sustained was unprecise, the court considering the questions involved more proper for determination in an action at law, and doubting its power to assess the damages, refused to grant relief.

The boundary between properties situated upon opposite banks of a natural stream is *prima facie* the *medium flum aquæ*.

The Court of Equity will not interfere with respect to an obstruction in the alveus of a natural stream in the absence of evidence of actual injury to a riparian proprietor.

A diversion of a stream from its natural channel over or in front of the land of a riparian proprietor, is in itself *injuria* without proof of actual or probable damage. If an interference with a stream does not divert it from its natural channel nor from a course through which the plaintiff has acquired a right to have the water flow, actual and sensible damage to a